

1 AN ACT relating to income tax.

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

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

4 ~~[For taxable years beginning on or after January 1, 2018,]~~In the case of taxpayers other
5 than corporations:

6 (1) Adjusted gross income shall be calculated by subtracting from the gross income of
7 those taxpayers the deductions allowed individuals by Section 62 of the Internal
8 Revenue Code and adjusting as follows:

9 (a) Exclude income that is exempt from state taxation by the Kentucky
10 Constitution and the Constitution and statutory laws of the United States;

11 (b) Exclude income from supplemental annuities provided by the Railroad
12 Retirement Act of 1937 as amended and which are subject to federal income
13 tax by Pub. L. No. 89-699;

14 (c) Include interest income derived from obligations of sister states and political
15 subdivisions thereof;

16 (d) Exclude employee pension contributions picked up as provided for in KRS
17 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610,
18 and 161.540 upon a ruling by the Internal Revenue Service or the federal
19 courts that these contributions shall not be included as gross income until such
20 time as the contributions are distributed or made available to the employee;

21 (e) Exclude Social Security and railroad retirement benefits subject to federal
22 income tax;

23 (f) Exclude any money received because of a settlement or judgment in a lawsuit
24 brought against a manufacturer or distributor of "Agent Orange" for damages
25 resulting from exposure to Agent Orange by a member or veteran of the
26 Armed Forces of the United States or any dependent of such person who
27 served in Vietnam;

- 1 (g) 1. a. For taxable years beginning after December 31, 2005, but before
2 January 1, 2018, exclude up to forty-one thousand one hundred ten
3 dollars (\$41,110) of total distributions from pension plans, annuity
4 contracts, profit-sharing plans, retirement plans, or employee
5 savings plans; and
- 6 b. For taxable years beginning on or after January 1, 2018, exclude
7 up to thirty-one thousand one hundred ten dollars (\$31,110) of
8 total distributions from pension plans, annuity contracts, profit-
9 sharing plans, retirement plans, or employee savings plans.
- 10 2. As used in this paragraph:
- 11 a. "Annuity contract" has the same meaning as set forth in Section
12 1035 of the Internal Revenue Code;
- 13 b. "Distributions" includes but is not limited to any lump-sum
14 distribution from pension or profit-sharing plans qualifying for the
15 income tax averaging provisions of Section 402 of the Internal
16 Revenue Code; any distribution from an individual retirement
17 account as defined in Section 408 of the Internal Revenue Code;
18 and any disability pension distribution; and
- 19 c. "Pension plans, profit-sharing plans, retirement plans, or employee
20 savings plans" means any trust or other entity created or organized
21 under a written retirement plan and forming part of a stock bonus,
22 pension, or profit-sharing plan of a public or private employer for
23 the exclusive benefit of employees or their beneficiaries and
24 includes plans qualified or unqualified under Section 401 of the
25 Internal Revenue Code and individual retirement accounts as
26 defined in Section 408 of the Internal Revenue Code;
- 27 (h) 1. a. Exclude the portion of the distributive share of a shareholder's net

- 1 income from an S corporation subject to the franchise tax imposed
2 under KRS 136.505 or the capital stock tax imposed under KRS
3 136.300; and
- 4 b. Exclude the portion of the distributive share of a shareholder's net
5 income from an S corporation related to a qualified subchapter S
6 subsidiary subject to the franchise tax imposed under KRS
7 136.505 or the capital stock tax imposed under KRS 136.300.
- 8 2. The shareholder's basis of stock held in an S corporation where the S
9 corporation or its qualified subchapter S subsidiary is subject to the
10 franchise tax imposed under KRS 136.505 or the capital stock tax
11 imposed under KRS 136.300 shall be the same as the basis for federal
12 income tax purposes;
- 13 (i) Exclude income received for services performed as a precinct worker for
14 election training or for working at election booths in state, county, and local
15 primaries or regular or special elections;
- 16 (j) Exclude any capital gains income attributable to property taken by eminent
17 domain;
- 18 (k) 1. Exclude all income from all sources for members of the Armed Forces
19 who are on active duty and who are killed in the line of duty, for the year
20 during which the death occurred and the year prior to the year during
21 which the death occurred.
- 22 2. For the purposes of this paragraph, "all income from all sources" shall
23 include all federal and state death benefits payable to the estate or any
24 beneficiaries;
- 25 (l) Exclude all military pay received by members of the Armed Forces while on
26 active duty;
- 27 (m) 1. Include the amount deducted for depreciation under 26 U.S.C. sec. 167

1 or 168; and

2 2. Exclude the amounts allowed by KRS 141.0101 for depreciation;~~and~~

3 (n) Include the amount deducted under 26 U.S.C. sec. 199A; and

4 **(o) 1. For taxable years beginning on or after January 1, 2020, but before**
 5 **January 1, 2024, exclude the amount an employer pays on behalf of**
 6 **an employee for student loan debt owed by that employee.**

7 **2. In order for the General Assembly to evaluate the effectiveness of the**
 8 **deduction provided to employers under subparagraph 1. of this**
 9 **paragraph, the department shall provide the following information on**
 10 **a cumulative basis for each taxable year to provide a historical impact**
 11 **of the deduction to the Commonwealth:**

12 **a. The location, by county, of the employer;**

13 **b. The amount of deduction taken by the employer for the student**
 14 **loan paid by the employer on behalf of the employee; and**

15 **c. Based on ranges of adjusted gross income of no larger than five**
 16 **thousand dollars (\$5,000) for the taxable year, the total amount**
 17 **of deductions claimed and the number of returns filed claiming**
 18 **the deduction for each adjusted gross income range.**

19 **3. The information required by subparagraph 2. of this paragraph shall**
 20 **be submitted to the Interim Joint Committee on Appropriations and**
 21 **Revenue no later than November 1, 2021, and no later than each**
 22 **November 1 thereafter, as long as the deduction is claimed on any**
 23 **return processed by the department; and**

24 (2) Net income shall be calculated by subtracting from adjusted gross income all the
 25 deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as
 26 modified by KRS 141.0101, except:

27 (a) Any deduction allowed by 26 U.S.C. sec. 164 for taxes;

- 1 (b) Any deduction allowed by 26 U.S.C. sec. 165 for losses, except wagering
2 losses allowed under Section 165(d) of the Internal Revenue Code;
- 3 (c) Any deduction allowed by 26 U.S.C. sec. 213 for medical care expenses;
- 4 (d) Any deduction allowed by 26 U.S.C. sec. 217 for moving expenses;
- 5 (e) Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous
6 deduction;
- 7 (f) Any deduction allowed by the Internal Revenue Code for amounts allowable
8 under KRS 140.090(1)(h) in calculating the value of the distributive shares of
9 the estate of a decedent, unless there is filed with the income return a
10 statement that the deduction has not been claimed under KRS 140.090(1)(h);
- 11 (g) Any deduction allowed by 26 U.S.C. sec. 151 for personal exemptions and
12 any other deductions in lieu thereof;
- 13 (h) Any deduction allowed for amounts paid to any club, organization, or
14 establishment which has been determined by the courts or an agency
15 established by the General Assembly and charged with enforcing the civil
16 rights laws of the Commonwealth, not to afford full and equal membership
17 and full and equal enjoyment of its goods, services, facilities, privileges,
18 advantages, or accommodations to any person because of race, color, religion,
19 national origin, or sex, except nothing shall be construed to deny a deduction
20 for amounts paid to any religious or denominational club, group, or
21 establishment or any organization operated solely for charitable or educational
22 purposes which restricts membership to persons of the same religion or
23 denomination in order to promote the religious principles for which it is
24 established and maintained; and
- 25 (i) A taxpayer may elect to claim the standard deduction allowed by KRS
26 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63
27 and as modified by this section.

1 ➔Section 2. KRS 141.039 is amended to read as follows:

2 ~~For taxable years beginning on or after January 1, 2018,~~ In the case of corporations:

3 (1) Gross income shall be calculated by adjusting federal gross income as defined in
4 Section 61 of the Internal Revenue Code as follows:

5 (a) Exclude income that is exempt from state taxation by the Kentucky
6 Constitution and the Constitution and statutory laws of the United States;

7 (b) Exclude all dividend income;

8 (c) Include interest income derived from obligations of sister states and political
9 subdivisions thereof;

10 (d) Exclude fifty percent (50%) of gross income derived from any disposal of coal
11 covered by Section 631(c) of the Internal Revenue Code if the corporation
12 does not claim any deduction for percentage depletion, or for expenditures
13 attributable to the making and administering of the contract under which such
14 disposition occurs or to the preservation of the economic interests retained
15 under such contract;

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

19 (f) Include the amount calculated under KRS 141.205;

20 (g) Ignore the provisions of Section 281 of the Internal Revenue Code in
21 computing gross income;

22 (h) Include the amount of depreciation deduction calculated under 26 U.S.C. sec.
23 167 or 168; and

24 *1. For taxable years beginning on or after January 1, 2020, but before*
25 *January 1, 2024, exclude the amount an employer pays on behalf of*
26 *an employee for student loan debt owed by that employee.*

27 *2. In order for the General Assembly to evaluate the effectiveness of the*

1 deduction provided to employers under subparagraph 1. of this
 2 paragraph, the department shall provide the following information on
 3 a cumulative basis for each taxable year to provide a historical impact
 4 of the deduction to the Commonwealth:

5 a. The location, by county, of the employer;

6 b. The amount of deduction taken by the employer for the student
 7 loan paid by the employer on behalf of the employee; and

8 c. Based on ranges of net income of no larger than fifty thousand
 9 dollars (\$50,000) for the taxable year, the total amount of
 10 deductions claimed and the number of returns filed claiming the
 11 deduction for each net income range.

12 3. The information required by subparagraph 2. of this paragraph shall
 13 be submitted to the Interim Joint Committee on Appropriations and
 14 Revenue no later than November 1, 2021, and no later than each
 15 November 1 thereafter, as long as the deduction is claimed on any
 16 return processed by the department; and

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

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

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

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

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

- 1 2. The deductions contained in Sections 243, 244, 245, and 247 of the
2 Internal Revenue Code;
- 3 3. The provisions of Section 281 of the Internal Revenue Code shall be
4 ignored in computing net income;
- 5 4. Any deduction directly or indirectly allocable to income which is either
6 exempt from taxation or otherwise not taxed under the provisions of this
7 chapter, and nothing in this chapter shall be construed to permit the
8 same item to be deducted more than once;
- 9 5. Any deduction for amounts paid to any club, organization, or
10 establishment which has been determined by the courts or an agency
11 established by the General Assembly and charged with enforcing the
12 civil rights laws of the Commonwealth, not to afford full and equal
13 membership and full and equal enjoyment of its goods, services,
14 facilities, privileges, advantages, or accommodations to any person
15 because of race, color, religion, national origin, or sex, except nothing
16 shall be construed to deny a deduction for amounts paid to any religious
17 or denominational club, group, or establishment or any organization
18 operated solely for charitable or educational purposes which restricts
19 membership to persons of the same religion or denomination in order to
20 promote the religious principles for which it is established and
21 maintained;
- 22 6. Any deduction prohibited by KRS 141.205; and
- 23 7. Any dividends-paid deduction of any captive real estate investment trust;
24 and
- 25 (d) 1. A deferred tax deduction in an amount computed in accordance with this
26 paragraph.
- 27 2. For purposes of this paragraph:

- 1 a. "Net deferred tax asset" means that deferred tax assets exceed the
2 deferred tax liabilities of the combined group, as computed in
3 accordance with accounting principles generally accepted in the
4 United States of America; and
- 5 b. "Net deferred tax liability" means deferred tax liabilities that
6 exceed the deferred tax assets of a combined group as defined in
7 KRS 141.202, as computed in accordance with accounting
8 principles generally accepted in the United States of America.
- 9 3. Only publicly traded companies, including affiliated corporations
10 participating in the filing of a publicly traded company's financial
11 statements prepared in accordance with accounting principles generally
12 accepted in the United States of America, as of January 1, 2019, shall be
13 eligible for this deduction.
- 14 4. If the provisions of KRS 141.202 result in an aggregate increase to the
15 member's net deferred tax liability, an aggregate decrease to the
16 member's net deferred tax asset, or an aggregate change from a net
17 deferred tax asset to a net deferred tax liability, the combined group
18 shall be entitled to a deduction, as determined in this paragraph.
- 19 5. For ten (10) years beginning with the combined group's first taxable year
20 beginning on or after January 1, 2024, a combined group shall be
21 entitled to a deduction from the combined group's entire net income
22 equal to one-tenth (1/10) of the amount necessary to offset the increase
23 in the net deferred tax liability, decrease in the net deferred tax asset, or
24 aggregate change from a net deferred tax asset to a net deferred tax
25 liability. The increase in the net deferred tax liability, decrease in the net
26 deferred tax asset, or the aggregate change from a net deferred tax asset
27 to a net deferred tax liability shall be computed based on the change that

1 would result from the imposition of the combined reporting requirement
2 under KRS 141.202, but for the deduction provided under this paragraph
3 as of June 27, 2019.

4 6. The deferred tax impact determined in subparagraph 5. of this paragraph
5 shall be converted to the annual deferred tax deduction amount, as
6 follows:

7 a. The deferred tax impact determined in subparagraph 5. of this
8 paragraph shall be divided by the tax rate determined under KRS
9 141.040;

10 b. The resulting amount shall be further divided by the apportionment
11 factor determined by KRS 141.120 or 141.121 that was used by the
12 combined group in the calculation of the deferred tax assets and
13 deferred tax liabilities as described in subparagraph 5. of this
14 paragraph; and

15 c. The resulting amount represents the total net deferred tax
16 deduction available over the ten (10) year period as described in
17 subparagraph 5. of this paragraph.

18 7. The deduction calculated under this paragraph shall not be adjusted as a
19 result of any events happening subsequent to the calculation, including
20 but not limited to any disposition or abandonment of assets. The
21 deduction shall be calculated without regard to the federal tax effect and
22 shall not alter the tax basis of any asset. If the deduction under this
23 section is greater than the combined group's entire Kentucky net income,
24 any excess deduction shall be carried forward and applied as a deduction
25 to the combined group's entire net income in future taxable years until
26 fully utilized.

27 8. Any combined group intending to claim a deduction under this

1 paragraph shall file a statement with the department on or before July 1,
2 2019. The statement shall specify the total amount of the deduction
3 which the combined group claims on the form, including calculations
4 and other information supporting the total amounts of the deduction as
5 required by the department. No deduction shall be allowed under this
6 paragraph for any taxable year, except to the extent claimed on the
7 timely filed statement in accordance with this paragraph.

8 ➔Section 3. KRS 131.190 is amended to read as follows:

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

19 (2) The prohibition established by subsection (1) of this section shall not extend to:
20 (a) Information required in prosecutions for making false reports or returns of
21 property for taxation, or any other infraction of the tax laws;
22 (b) Any matter properly entered upon any assessment record, or in any way made
23 a matter of public record;
24 (c) Furnishing any taxpayer or his properly authorized agent with information
25 respecting his own return;
26 (d) Testimony provided by the commissioner or any employee of the department
27 in any court, or the introduction as evidence of returns or reports filed with the

- 1 department, in an action for violation of state or federal tax laws or in any
2 action challenging state or federal tax laws;
- 3 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or
4 energy resources assessed under KRS 132.820, or owners of surface land
5 under which the unmined minerals lie, factual information about the owner's
6 property derived from third-party returns filed for that owner's property, under
7 the provisions of KRS 132.820, that is used to determine the owner's
8 assessment. This information shall be provided to the owner on a confidential
9 basis, and the owner shall be subject to the penalties provided in KRS
10 131.990(2). The third-party filer shall be given prior notice of any disclosure
11 of information to the owner that was provided by the third-party filer;
- 12 (f) Providing to a third-party purchaser pursuant to an order entered in a
13 foreclosure action filed in a court of competent jurisdiction, factual
14 information related to the owner or lessee of coal, oil, gas reserves, or any
15 other mineral resources assessed under KRS 132.820. The department may
16 promulgate an administrative regulation establishing a fee schedule for the
17 provision of the information described in this paragraph. Any fee imposed
18 shall not exceed the greater of the actual cost of providing the information or
19 ten dollars (\$10);
- 20 (g) Providing information to a licensing agency, the Transportation Cabinet, or
21 the Kentucky Supreme Court under KRS 131.1817;
- 22 (h) Statistics of gasoline and special fuels gallonage reported to the department
23 under KRS 138.210 to 138.448;
- 24 (i) Providing any utility gross receipts license tax return information that is
25 necessary to administer the provisions of KRS 160.613 to 160.617 to
26 applicable school districts on a confidential basis;
- 27 (j) Providing documents, data, or other information to a third party pursuant to an

- 1 order issued by a court of competent jurisdiction; or
- 2 (k) Providing information to the Legislative Research Commission under:
- 3 1. KRS 139.519 for purposes of the sales and use tax refund on building
- 4 materials used for disaster recovery;
- 5 2. *Sections 1 and 2 of this Act for purposes of the income tax deduction*
- 6 *claimed by an employer for student loan debt paid on behalf of the*
- 7 *employer's employee;*
- 8 3. KRS 141.436 for purposes of the energy efficiency products credits;
- 9 4.~~[3.]~~ KRS 141.437 for purposes of the ENERGY STAR home and the
- 10 ENERGY STAR manufactured home credits;
- 11 5.~~[4.]~~ KRS 148.544 for purposes of the film industry incentives;
- 12 6.~~[5.]~~ KRS 154.26-095 for purposes of the Kentucky industrial revitalization
- 13 tax credits and the job assessment fees;
- 14 7.~~[6.]~~ KRS 141.068 for purposes of the Kentucky investment fund;
- 15 8.~~[7.]~~ KRS 141.396 for purposes of the angel investor tax credit;
- 16 9.~~[8.]~~ KRS 141.389 for purposes of the distilled spirits credit;
- 17 10.~~[9.]~~ KRS 141.408 for purposes of the inventory credit; and
- 18 11.~~[10.]~~ KRS 141.390 for purposes of the recycling and composting credit.
- 19 (3) The commissioner shall make available any information for official use only and on
- 20 a confidential basis to the proper officer, agency, board or commission of this state,
- 21 any Kentucky county, any Kentucky city, any other state, or the federal government,
- 22 under reciprocal agreements whereby the department shall receive similar or useful
- 23 information in return.
- 24 (4) Access to and inspection of information received from the Internal Revenue Service
- 25 is for department use only, and is restricted to tax administration purposes.
- 26 Information received from the Internal Revenue Service shall not be made available
- 27 to any other agency of state government, or any county, city, or other state, and shall

1 not be inspected intentionally and without authorization by any present secretary or
2 employee of the Finance and Administration Cabinet, commissioner or employee of
3 the department, or any other person.

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

9 (6) Notwithstanding any provision of law to the contrary, beginning with mine-map
10 submissions for the 1989 tax year, the department may make public or divulge only
11 those portions of mine maps submitted by taxpayers to the department pursuant to
12 KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-
13 out parcel areas. These electronic maps shall not be relied upon to determine actual
14 boundaries of mined-out parcel areas. Property boundaries contained in mine maps
15 required under KRS Chapters 350 and 352 shall not be construed to constitute land
16 surveying or boundary surveys as defined by KRS 322.010 and any administrative
17 regulations promulgated thereto.