

1 AN ACT relating to sales and use tax exemptions.

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

3 ➔Section 1. KRS 139.480 is amended to read as follows:

4 Any other provision of this chapter to the contrary notwithstanding, the terms "sale at
5 retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not
6 include the sale, use, storage, or other consumption of:

- 7 (1) Locomotives or rolling stock, including materials for the construction, repair, or
8 modification thereof, or fuel or supplies for the direct operation of locomotives and
9 trains, used or to be used in interstate commerce;
- 10 (2) Coal for the manufacture of electricity;
- 11 (3) (a) All energy or energy-producing fuels used in the course of manufacturing,
12 processing, mining, or refining and any related distribution, transmission, and
13 transportation services for this energy that are billed to the user, to the extent
14 that the cost of the energy or energy-producing fuels used, and related
15 distribution, transmission, and transportation services for this energy that are
16 billed to the user exceed three percent (3%) of the cost of production.
- 17 (b) Cost of production shall be computed on the basis of a plant facility, which
18 shall include all operations within the continuous, unbroken, integrated
19 manufacturing or industrial processing process that ends with a product
20 packaged and ready for sale.
- 21 (c) A person who performs a manufacturing or industrial processing activity for a
22 fee and does not take ownership of the tangible personal property that is
23 incorporated into, or becomes the product of, the manufacturing or industrial
24 processing activity is a toller. For periods on or after July 1, 2018, the costs of
25 the tangible personal property shall be excluded from the toller's cost of
26 production at a plant facility with tolling operations in place as of July 1,
27 2018.

- 1 (d) For plant facilities that begin tolling operations after July 1, 2018, the costs of
2 tangible personal property shall be excluded from the toller's cost of
3 production if the toller:
- 4 1. Maintains a binding contract for periods after July 1, 2018, that governs
5 the terms, conditions, and responsibilities with a separate legal entity,
6 which holds title to the tangible personal property that is incorporated
7 into, or becomes the product of, the manufacturing or industrial
8 processing activity;
 - 9 2. Maintains accounting records that show the expenses it incurs to fulfill
10 the binding contract that include but are not limited to energy or energy-
11 producing fuels, materials, labor, procurement, depreciation,
12 maintenance, taxes, administration, and office expenses;
 - 13 3. Maintains separate payroll, bank accounts, tax returns, and other records
14 that demonstrate its independent operations in the performance of its
15 tolling responsibilities;
 - 16 4. Demonstrates one (1) or more substantial business purposes for the
17 tolling operations germane to the overall manufacturing, industrial
18 processing activities, or corporate structure at the plant facility. A
19 business purpose is a purpose other than the reduction of sales tax
20 liability for the purchases of energy and energy-producing fuels; and
 - 21 5. Provides information to the department upon request that documents
22 fulfillment of the requirements in subparagraphs 1. to 4. of this
23 paragraph and gives an overview of its tolling operations with an
24 explanation of how the tolling operations relate and connect with all
25 other manufacturing or industrial processing activities occurring at the
26 plant facility.
- 27 (4) Livestock of a kind the products of which ordinarily constitute food for human

- 1 consumption, provided the sales are made for breeding or dairy purposes and by or
2 to a person regularly engaged in the business of farming;
- 3 (5) Poultry for use in breeding or egg production;
- 4 (6) Farm work stock for use in farming operations;
- 5 (7) Seeds, the products of which ordinarily constitute food for human consumption or
6 are to be sold in the regular course of business, and commercial fertilizer to be
7 applied on land, the products from which are to be used for food for human
8 consumption or are to be sold in the regular course of business; provided such sales
9 are made to farmers who are regularly engaged in the occupation of tilling and
10 cultivating the soil for the production of crops as a business, or who are regularly
11 engaged in the occupation of raising and feeding livestock or poultry or producing
12 milk for sale; and provided further that tangible personal property so sold is to be
13 used only by those persons designated above who are so purchasing;
- 14 (8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be
15 used in the production of crops as a business, or in the raising and feeding of
16 livestock or poultry, the products of which ordinarily constitute food for human
17 consumption;
- 18 (9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the
19 products of which ordinarily constitute food for human consumption;
- 20 (10) Machinery for new and expanded industry;
- 21 (11) Farm machinery. As used in this section, the term "farm machinery":
- 22 (a) Means machinery used exclusively and directly in the occupation of:
- 23 1. Tilling the soil for the production of crops as a business;
- 24 2. Raising and feeding livestock or poultry for sale; or
- 25 3. Producing milk for sale;
- 26 (b) Includes machinery, attachments, and replacements therefor, repair parts, and
27 replacement parts which are used or manufactured for use on, or in the

1 operation of farm machinery and which are necessary to the operation of the
2 machinery, and are customarily so used, including but not limited to combine
3 header wagons, combine header trailers, or any other implements specifically
4 designed and used to move or transport a combine head; and

5 (c) Does not include:

- 6 1. Automobiles;
- 7 2. Trucks;
- 8 3. Trailers, except combine header trailers; or
- 9 4. Truck-trailer combinations;

10 (12) Tombstones and other memorial grave markers;

11 (13) On-farm facilities used exclusively for grain or soybean storing, drying, processing,
12 or handling. The exemption applies to the equipment, machinery, attachments,
13 repair and replacement parts, and any materials incorporated into the construction,
14 renovation, or repair of the facilities;

15 (14) On-farm facilities used exclusively for raising poultry or livestock. The exemption
16 shall apply to the equipment, machinery, attachments, repair and replacement parts,
17 and any materials incorporated into the construction, renovation, or repair of the
18 facilities. The exemption shall apply but not be limited to vent board equipment,
19 waterer and feeding systems, brooding systems, ventilation systems, alarm systems,
20 and curtain systems. In addition, the exemption shall apply whether or not the seller
21 is under contract to deliver, assemble, and incorporate into real estate the
22 equipment, machinery, attachments, repair and replacement parts, and any materials
23 incorporated into the construction, renovation, or repair of the facilities;

24 (15) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively
25 and directly to:

- 26 (a) Operate farm machinery as defined in subsection (11) of this section;
- 27 (b) Operate on-farm grain or soybean drying facilities as defined in subsection

- 1 (13) of this section;
- 2 (c) Operate on-farm poultry or livestock facilities defined in subsection (14) of
3 this section;
- 4 (d) Operate on-farm ratite facilities defined in subsection (23) of this section;
- 5 (e) Operate on-farm llama or alpaca facilities as defined in subsection (25) of this
6 section; or
- 7 (f) Operate on-farm dairy facilities;
- 8 (16) Textbooks, including related workbooks and other course materials, purchased for
9 use in a course of study conducted by an institution which qualifies as a nonprofit
10 educational institution under KRS 139.495. The term "course materials" means only
11 those items specifically required of all students for a particular course but shall not
12 include notebooks, paper, pencils, calculators, tape recorders, or similar student
13 aids;
- 14 (17) Any property which has been certified as an alcohol production facility as defined in
15 KRS 247.910;
- 16 (18) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the
17 direct operation of aircraft in interstate commerce and used exclusively for the
18 conveyance of property or passengers for hire. Nominal intrastate use shall not
19 subject the property to the taxes imposed by this chapter;
- 20 (19) Any property which has been certified as a fluidized bed energy production facility
21 as defined in KRS 211.390;
- 22 (20) (a) 1. Any property to be incorporated into the construction, rebuilding,
23 modification, or expansion of a blast furnace or any of its components or
24 appurtenant equipment or structures as part of an approved supplemental
25 project, as defined by KRS 154.26-010; and
- 26 2. Materials, supplies, and repair or replacement parts purchased for use in
27 the operation and maintenance of a blast furnace and related carbon

1 steel-making operations as part of an approved supplemental project, as
2 defined by KRS 154.26-010.

3 (b) The exemptions provided in this subsection shall be effective for sales made:

4 1. On and after July 1, 2018; and

5 2. During the term of a supplemental project agreement entered into
6 pursuant to KRS 154.26-090;

7 (21) Beginning on October 1, 1986, food or food products purchased for human
8 consumption with food coupons issued by the United States Department of
9 Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to
10 be exempted by the Food Security Act of 1985 in order for the Commonwealth to
11 continue participation in the federal food stamp program;

12 (22) Machinery or equipment purchased or leased by a business, industry, or
13 organization in order to collect, source separate, compress, bale, shred, or otherwise
14 handle waste materials if the machinery or equipment is primarily used for recycling
15 purposes;

16 (23) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and
17 production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-
18 products, and the following items used in this agricultural pursuit:

19 (a) Feed and feed additives;

20 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

21 (c) On-farm facilities, including equipment, machinery, attachments, repair and
22 replacement parts, and any materials incorporated into the construction,
23 renovation, or repair of the facilities. The exemption shall apply to incubation
24 systems, egg processing equipment, waterer and feeding systems, brooding
25 systems, ventilation systems, alarm systems, and curtain systems. In addition,
26 the exemption shall apply whether or not the seller is under contract to deliver,
27 assemble, and incorporate into real estate the equipment, machinery,

- 1 attachments, repair and replacement parts, and any materials incorporated into
2 the construction, renovation, or repair of the facilities;
- 3 (24) Embryos and semen that are used in the reproduction of livestock, if the products of
4 these embryos and semen ordinarily constitute food for human consumption, and if
5 the sale is made to a person engaged in the business of farming;
- 6 (25) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for
7 the breeding and production of hides, breeding stock, fiber and wool products, meat,
8 and llama and alpaca by-products, and the following items used in this pursuit:
- 9 (a) Feed and feed additives;
- 10 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
11 and
- 12 (c) On-farm facilities, including equipment, machinery, attachments, repair and
13 replacement parts, and any materials incorporated into the construction,
14 renovation, or repair of the facilities. The exemption shall apply to waterer
15 and feeding systems, ventilation systems, and alarm systems. In addition, the
16 exemption shall apply whether or not the seller is under contract to deliver,
17 assemble, and incorporate into real estate the equipment, machinery,
18 attachments, repair and replacement parts, and any materials incorporated into
19 the construction, renovation, or repair of the facilities;
- 20 (26) Baling twine and baling wire for the baling of hay and straw;
- 21 (27) Water sold to a person regularly engaged in the business of farming and used in the:
- 22 (a) Production of crops;
- 23 (b) Production of milk for sale; or
- 24 (c) Raising and feeding of:
- 25 1. Livestock or poultry, the products of which ordinarily constitute food for
26 human consumption; or
- 27 2. Ratites, llamas, alpacas, buffalo, cervids or aquatic organisms;

- 1 (28) Buffalos to be used as beasts of burden or in an agricultural pursuit for the
2 production of hides, breeding stock, meat, and buffalo by-products, and the
3 following items used in this pursuit:
- 4 (a) Feed and feed additives;
 - 5 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
 - 6 (c) On-farm facilities, including equipment, machinery, attachments, repair and
7 replacement parts, and any materials incorporated into the construction,
8 renovation, or repair of the facilities. The exemption shall apply to waterer
9 and feeding systems, ventilation systems, and alarm systems. In addition, the
10 exemption shall apply whether or not the seller is under contract to deliver,
11 assemble, and incorporate into real estate the equipment, machinery,
12 attachments, repair and replacement parts, and any materials incorporated into
13 the construction, renovation, or repair of the facilities;
- 14 (29) Aquatic organisms sold directly to or raised by a person regularly engaged in the
15 business of producing products of aquaculture, as defined in KRS 260.960, for sale,
16 and the following items used in this pursuit:
- 17 (a) Feed and feed additives;
 - 18 (b) Water;
 - 19 (c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
20 and
 - 21 (d) On-farm facilities, including equipment, machinery, attachments, repair and
22 replacement parts, and any materials incorporated into the construction,
23 renovation, or repair of the facilities and, any gasoline, special fuels, liquefied
24 petroleum gas, or natural gas used to operate the facilities. The exemption
25 shall apply, but not be limited to: waterer and feeding systems; ventilation,
26 aeration, and heating systems; processing and storage systems; production
27 systems such as ponds, tanks, and raceways; harvest and transport equipment

1 and systems; and alarm systems. In addition, the exemption shall apply
2 whether or not the seller is under contract to deliver, assemble, and
3 incorporate into real estate the equipment, machinery, attachments, repair and
4 replacement parts, and any materials incorporated into the construction,
5 renovation, or repair of the facilities;

6 (30) Members of the genus cervidae permitted by KRS Chapter 150 that are used for the
7 production of hides, breeding stock, meat, and cervid by-products, and the
8 following items used in this pursuit:

9 (a) Feed and feed additives;

10 (b) Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and

11 (c) On-site facilities, including equipment, machinery, attachments, repair and
12 replacement parts, and any materials incorporated into the construction,
13 renovation, or repair of the facilities. In addition, the exemption shall apply
14 whether or not the seller is under contract to deliver, assemble, and
15 incorporate into real estate the equipment, machinery, attachments, repair and
16 replacement parts, and any materials incorporated into the construction,
17 renovation, or repair of the facilities;

18 (31) (a) Repair or replacement parts for the direct operation or maintenance of a motor
19 vehicle, including any towed unit, used exclusively in interstate commerce for
20 the conveyance of property or passengers for hire, provided the motor vehicle
21 is licensed for use on the highway and its declared gross vehicle weight with
22 any towed unit is forty-four thousand and one (44,001) pounds or greater.
23 Nominal intrastate use shall not subject the property to the taxes imposed by
24 this chapter;

25 (b) Repair or replacement parts for the direct operation and maintenance of a
26 motor vehicle operating under a charter bus certificate issued by the
27 Transportation Cabinet under KRS Chapter 281, or under similar authority

1 granted by the United States Department of Transportation; and

2 (c) For the purposes of this subsection, "repair or replacement parts" means tires,
 3 brakes, engines, transmissions, drive trains, chassis, body parts, and their
 4 components. "Repair or replacement parts" shall not include fuel, machine
 5 oils, hydraulic fluid, brake fluid, grease, supplies, or accessories not essential
 6 to the operation of the motor vehicle itself, except when sold as part of the
 7 assembled unit, such as cigarette lighters, radios, lighting fixtures not
 8 otherwise required by the manufacturer for operation of the vehicle, or tool or
 9 utility boxes;~~and~~

10 (32) Food donated by a retail food establishment or any other entity regulated under KRS
 11 217.127 to a nonprofit organization for distribution to the needy; and

12 (33) (a) Tangible personal property sold to or purchased by a person on or after
 13 October 1, 2020, and before October 1, 2024, who is under contract to
 14 incorporate that tangible personal property into a structure or improvement
 15 to real estate, if:

16 1. The tangible personal property will enter into and become a
 17 permanent part of the structure or real estate; and

18 2. The tangible personal property will be used to fulfill the terms of a
 19 contract with:

20 a. A federal, state, or local governmental entity that is exempt from
 21 tax on the purchase of tangible personal property for use in its
 22 governmental function under KRS 139.470(1) or (6); or

23 b. A resident, nonprofit educational, charitable, or religious
 24 institution, or a resident, disregarded single-member limited
 25 liability company, that is exempt from tax on the purchase of
 26 tangible personal property for use in its educational, charitable,
 27 or religious function under KRS 139.495.

1 **(b) On or before January 1, 2022, and on or before each January 1 thereafter**
2 **as long as the exemption applies, the department shall report to the Interim**
3 **Joint Committee on Appropriations and Revenue the total amount of tax**
4 **exemption that has been claimed for the immediately preceding fiscal year**
5 **and the total cumulative amount of the exemption claimed.**

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

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

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

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

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

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

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

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

- 1 1. Section 1 of this Act for purposes of the sales and use tax exemption
- 2 for contractors;
- 3 ~~2.[1.]~~ KRS 139.519 for purposes of the sales and use tax refund on building
- 4 materials used for disaster recovery;
- 5 3. KRS 141.068 for purposes of the Kentucky investment fund;
- 6 4. KRS 141.389 for purposes of the distilled spirits credit;
- 7 5. KRS 141.390 for purposes of the recycling and composting credit.
- 8 6. KRS 141.396 for purposes of the angel investor tax credit;
- 9 7. KRS 141.408 for purposes of the inventory credit;
- 10 ~~8.[2.]~~ KRS 141.436 for purposes of the energy efficiency products credits;
- 11 ~~9.[3.]~~ KRS 141.437 for purposes of the ENERGY STAR home and the
- 12 ENERGY STAR manufactured home credits;
- 13 ~~10.[4.]~~ KRS 148.544 for purposes of the film industry incentives; and
- 14 ~~11.[5.]~~ KRS 154.26-095 for purposes of the Kentucky industrial
- 15 revitalization tax credits and the job assessment fees;
- 16 ~~6.—~~ KRS 141.068 for purposes of the Kentucky investment fund;
- 17 ~~7.—~~ KRS 141.396 for purposes of the angel investor tax credit;
- 18 ~~8.—~~ KRS 141.389 for purposes of the distilled spirits credit;
- 19 ~~9.—~~ KRS 141.408 for purposes of the inventory credit; and
- 20 ~~10.—~~ KRS 141.390 for purposes of the recycling and composting credit].
- 21 (3) The commissioner shall make available any information for official use only and on
- 22 a confidential basis to the proper officer, agency, board or commission of this state,
- 23 any Kentucky county, any Kentucky city, any other state, or the federal government,
- 24 under reciprocal agreements whereby the department shall receive similar or useful
- 25 information in return.
- 26 (4) Access to and inspection of information received from the Internal Revenue Service
- 27 is for department use only, and is restricted to tax administration purposes.

1 Information received from the Internal Revenue Service shall not be made available
2 to any other agency of state government, or any county, city, or other state, and shall
3 not be inspected intentionally and without authorization by any present secretary or
4 employee of the Finance and Administration Cabinet, commissioner or employee of
5 the department, or any other person.

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

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