

1 AN ACT relating to the expenses paid with Paycheck Protection Program loans.

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

3 ➔Section 1. KRS 141.017 is amended to read as follows:

4 (1) (a) All deductions allowed by this chapter shall be limited to amounts directly or
5 indirectly allocable to income subject to taxation under the provisions of this
6 chapter.

7 (b) Any deduction directly or indirectly allocable to income which is either
8 exempt from taxation or otherwise not taxed under this chapter shall not be
9 allowed.

10 **(c) This subsection does not apply to deductions allowed under Pub. L. No.**
11 **116-260, sec. 276, related to the tax treatment of forgiven covered loans and**
12 **deductions attributable to those loans for taxable years beginning on or**
13 **after January 1, 2020, but before taxable years beginning January 1, 2022.**

14 (2) Nothing in this chapter shall be construed to permit the same item to be deducted
15 more than once.

16 ➔Section 2. KRS 141.019 is amended to read as follows:

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

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

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

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

27 (c) Include interest income derived from obligations of sister states and political

1 subdivisions thereof;

2 (d) Exclude employee pension contributions picked up as provided for in KRS
3 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610,
4 and 161.540 upon a ruling by the Internal Revenue Service or the federal
5 courts that these contributions shall not be included as gross income until such
6 time as the contributions are distributed or made available to the employee;

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

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

14 (g) 1. a. For taxable years beginning after December 31, 2005, but before
15 January 1, 2018, exclude up to forty-one thousand one hundred ten
16 dollars (\$41,110) of total distributions from pension plans, annuity
17 contracts, profit-sharing plans, retirement plans, or employee
18 savings plans; and

19 b. For taxable years beginning on or after January 1, 2018, exclude
20 up to thirty-one thousand one hundred ten dollars (\$31,110) of
21 total distributions from pension plans, annuity contracts, profit-
22 sharing plans, retirement plans, or employee savings plans.

23 2. As used in this paragraph:

24 a. "Annuity contract" has the same meaning as set forth in Section
25 1035 of the Internal Revenue Code;

26 b. "Distributions" includes but is not limited to any lump-sum
27 distribution from pension or profit-sharing plans qualifying for the

- 1 income tax averaging provisions of Section 402 of the Internal
2 Revenue Code; any distribution from an individual retirement
3 account as defined in Section 408 of the Internal Revenue Code;
4 and any disability pension distribution; and
- 5 c. "Pension plans, profit-sharing plans, retirement plans, or employee
6 savings plans" means any trust or other entity created or organized
7 under a written retirement plan and forming part of a stock bonus,
8 pension, or profit-sharing plan of a public or private employer for
9 the exclusive benefit of employees or their beneficiaries and
10 includes plans qualified or unqualified under Section 401 of the
11 Internal Revenue Code and individual retirement accounts as
12 defined in Section 408 of the Internal Revenue Code;
- 13 (h) 1. a. Exclude the portion of the distributive share of a shareholder's net
14 income from an S corporation subject to the franchise tax imposed
15 under KRS 136.505 or the capital stock tax imposed under KRS
16 136.300; and
- 17 b. Exclude the portion of the distributive share of a shareholder's net
18 income from an S corporation related to a qualified subchapter S
19 subsidiary subject to the franchise tax imposed under KRS
20 136.505 or the capital stock tax imposed under KRS 136.300.
- 21 2. The shareholder's basis of stock held in an S corporation where the S
22 corporation or its qualified subchapter S subsidiary is subject to the
23 franchise tax imposed under KRS 136.505 or the capital stock tax
24 imposed under KRS 136.300 shall be the same as the basis for federal
25 income tax purposes;
- 26 (i) Exclude income received for services performed as a precinct worker for
27 election training or for working at election booths in state, county, and local

- 1 primaries or regular or special elections;
- 2 (j) Exclude any capital gains income attributable to property taken by eminent
3 domain;
- 4 (k) 1. Exclude all income from all sources for members of the Armed Forces
5 who are on active duty and who are killed in the line of duty, for the year
6 during which the death occurred and the year prior to the year during
7 which the death occurred.
- 8 2. For the purposes of this paragraph, "all income from all sources" shall
9 include all federal and state death benefits payable to the estate or any
10 beneficiaries;
- 11 (l) Exclude all military pay received by members of the Armed Forces while on
12 active duty;
- 13 (m) 1. Include the amount deducted for depreciation under 26 U.S.C. sec. 167
14 or 168; and
- 15 2. Exclude the amounts allowed by KRS 141.0101 for depreciation;
- 16 (n) Include the amount deducted under 26 U.S.C. sec. 199A;~~and~~
- 17 (o) Ignore any change in the cost basis of the surviving spouse's share of property
18 owned by a Kentucky community property trust occurring for federal income
19 tax purposes as a result of the death of the predeceasing spouse; and
- 20 **(p) Allow the same treatment allowed under Pub. L. No. 116-260, sec. 276,**
21 **related to the tax treatment of forgiven covered loans, deductions**
22 **attributable to those loans, and tax attributes associated with those loans for**
23 **taxable years beginning on or after January 1, 2020, but before January 1,**
24 **2022; and**
- 25 (2) Net income shall be calculated by subtracting from adjusted gross income all the
26 deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as
27 modified by KRS 141.0101, except:

- 1 (a) Any deduction allowed by 26 U.S.C. sec. 164 for taxes;
- 2 (b) Any deduction allowed by 26 U.S.C. sec. 165 for losses, except wagering
3 losses allowed under Section 165(d) of the Internal Revenue Code;
- 4 (c) Any deduction allowed by 26 U.S.C. sec. 213 for medical care expenses;
- 5 (d) Any deduction allowed by 26 U.S.C. sec. 217 for moving expenses;
- 6 (e) Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous
7 deduction;
- 8 (f) Any deduction allowed by the Internal Revenue Code for amounts allowable
9 under KRS 140.090(1)(h) in calculating the value of the distributive shares of
10 the estate of a decedent, unless there is filed with the income return a
11 statement that the deduction has not been claimed under KRS 140.090(1)(h);
- 12 (g) Any deduction allowed by 26 U.S.C. sec. 151 for personal exemptions and
13 any other deductions in lieu thereof;
- 14 (h) Any deduction allowed for amounts paid to any club, organization, or
15 establishment which has been determined by the courts or an agency
16 established by the General Assembly and charged with enforcing the civil
17 rights laws of the Commonwealth, not to afford full and equal membership
18 and full and equal enjoyment of its goods, services, facilities, privileges,
19 advantages, or accommodations to any person because of race, color, religion,
20 national origin, or sex, except nothing shall be construed to deny a deduction
21 for amounts paid to any religious or denominational club, group, or
22 establishment or any organization operated solely for charitable or educational
23 purposes which restricts membership to persons of the same religion or
24 denomination in order to promote the religious principles for which it is
25 established and maintained; and
- 26 (i) A taxpayer may elect to claim the standard deduction allowed by KRS
27 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63

1 and as modified by this section.

2 →Section 3. KRS 141.039 is amended to read as follows:

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

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

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

8 (b) Exclude all dividend income;

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

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

17 (e) Include the amount calculated under KRS 141.205;

18 (f) Ignore the provisions of Section 281 of the Internal Revenue Code in
19 computing gross income;

20 (g) Include the amount of depreciation deduction calculated under 26 U.S.C. sec.
21 167 or 168; and

22 **(h) Allow the same treatment allowed under Pub. L. No. 116-260, sec. 276,**
23 **related to the tax treatment of forgiven covered loans, deductions**
24 **attributable to those loans, and tax attributes associated with those loans for**
25 **taxable years beginning on or after January 1, 2020, but before January 1,**
26 **2022; and**

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

- 1 (a) The deduction for depreciation allowed by KRS 141.0101;
- 2 (b) Any amount paid for vouchers or similar instruments that provide health
3 insurance coverage to employees or their families;
- 4 (c) All the deductions from gross income allowed corporations by Chapter 1 of
5 the Internal Revenue Code, as modified by KRS 141.0101, except:
- 6 1. Any deduction for a state tax which is computed, in whole or in part, by
7 reference to gross or net income and which is paid or accrued to any
8 state of the United States, the District of Columbia, the Commonwealth
9 of Puerto Rico, any territory or possession of the United States, or to any
10 foreign country or political subdivision thereof;
- 11 2. The deductions contained in Sections 243, 245, and 247 of the Internal
12 Revenue Code;
- 13 3. The provisions of Section 281 of the Internal Revenue Code shall be
14 ignored in computing net income;
- 15 4. Any deduction directly or indirectly allocable to income which is either
16 exempt from taxation or otherwise not taxed under the provisions of this
17 chapter, except for deductions allowed under Pub. L. No. 116-260, sec.
18 276, related to the tax treatment of forgiven covered loans and
19 deductions attributable to those loans for taxable years beginning on
20 or after January 1, 2020, but before January 1, 2022, and nothing in
21 this chapter shall be construed to permit the same item to be deducted
22 more than once;
- 23 5. Any deduction for amounts paid to any club, organization, or
24 establishment which has been determined by the courts or an agency
25 established by the General Assembly and charged with enforcing the
26 civil rights laws of the Commonwealth, not to afford full and equal
27 membership and full and equal enjoyment of its goods, services,

- 1 facilities, privileges, advantages, or accommodations to any person
2 because of race, color, religion, national origin, or sex, except nothing
3 shall be construed to deny a deduction for amounts paid to any religious
4 or denominational club, group, or establishment or any organization
5 operated solely for charitable or educational purposes which restricts
6 membership to persons of the same religion or denomination in order to
7 promote the religious principles for which it is established and
8 maintained;
- 9 6. Any deduction prohibited by KRS 141.205; and
10 7. Any dividends-paid deduction of any captive real estate investment trust;
11 and
- 12 (d) 1. A deferred tax deduction in an amount computed in accordance with this
13 paragraph.
14 2. For purposes of this paragraph:
15 a. "Net deferred tax asset" means that deferred tax assets exceed the
16 deferred tax liabilities of the combined group, as computed in
17 accordance with accounting principles generally accepted in the
18 United States of America; and
19 b. "Net deferred tax liability" means deferred tax liabilities that
20 exceed the deferred tax assets of a combined group as defined in
21 KRS 141.202, as computed in accordance with accounting
22 principles generally accepted in the United States of America.
23 3. Only publicly traded companies, including affiliated corporations
24 participating in the filing of a publicly traded company's financial
25 statements prepared in accordance with accounting principles generally
26 accepted in the United States of America, as of January 1, 2019, shall be
27 eligible for this deduction.

- 1 4. If the provisions of KRS 141.202 result in an aggregate increase to the
2 member's net deferred tax liability, an aggregate decrease to the
3 member's net deferred tax asset, or an aggregate change from a net
4 deferred tax asset to a net deferred tax liability, the combined group
5 shall be entitled to a deduction, as determined in this paragraph.
- 6 5. For ten (10) years beginning with the combined group's first taxable year
7 beginning on or after January 1, 2024, a combined group shall be
8 entitled to a deduction from the combined group's entire net income
9 equal to one-tenth (1/10) of the amount necessary to offset the increase
10 in the net deferred tax liability, decrease in the net deferred tax asset, or
11 aggregate change from a net deferred tax asset to a net deferred tax
12 liability. The increase in the net deferred tax liability, decrease in the net
13 deferred tax asset, or the aggregate change from a net deferred tax asset
14 to a net deferred tax liability shall be computed based on the change that
15 would result from the imposition of the combined reporting requirement
16 under KRS 141.202, but for the deduction provided under this paragraph
17 as of June 27, 2019.
- 18 6. The deferred tax impact determined in subparagraph 5. of this paragraph
19 shall be converted to the annual deferred tax deduction amount, as
20 follows:
- 21 a. The deferred tax impact determined in subparagraph 5. of this
22 paragraph shall be divided by the tax rate determined under KRS
23 141.040;
- 24 b. The resulting amount shall be further divided by the apportionment
25 factor determined by KRS 141.120 or 141.121 that was used by the
26 combined group in the calculation of the deferred tax assets and
27 deferred tax liabilities as described in subparagraph 5. of this

1 paragraph; and

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

5 7. The deduction calculated under this paragraph shall not be adjusted as a
6 result of any events happening subsequent to the calculation, including
7 but not limited to any disposition or abandonment of assets. The
8 deduction shall be calculated without regard to the federal tax effect and
9 shall not alter the tax basis of any asset. If the deduction under this
10 section is greater than the combined group's entire Kentucky net income,
11 any excess deduction shall be carried forward and applied as a deduction
12 to the combined group's entire net income in future taxable years until
13 fully utilized.

14 8. Any combined group intending to claim a deduction under this
15 paragraph shall file a statement with the department on or before July 1,
16 2019. The statement shall specify the total amount of the deduction
17 which the combined group claims on the form, including calculations
18 and other information supporting the total amounts of the deduction as
19 required by the department. No deduction shall be allowed under this
20 paragraph for any taxable year, except to the extent claimed on the
21 timely filed statement in accordance with this paragraph.