

1 AN ACT relating to contributions made to a qualified tuition program.

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

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or 168; and

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

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

(o) Ignore any change in the cost basis of the surviving spouse's share of property owned by a Kentucky community property trust occurring for federal income tax purposes as a result of the death of the predeceasing spouse; and

(p) 1. For taxable years beginning on or after January 1, 2021, but before January 1, 2025, exclude the amounts contributed to a qualified tuition program as defined in Section 529 of the Internal Revenue Code;

2. The amounts deducted shall not exceed:

a. Six thousand dollars (\$6,000) for the taxable year if the taxpayer files separately; or

b. Twelve thousand dollars (\$12,000) for the taxable year if the taxpayer and the taxpayer's spouse file a joint return or file separately on a combined form; and

3. In order for the General Assembly to evaluate the use and application of this deduction, the department shall provide the following information on a cumulative basis for each taxable year to provide a historical impact of the tax credit to the Commonwealth:

1. The location of the taxpayer, by county, as reflected on the return filed for the taxable year;

2. The total amount of the deduction claimed by the taxpayer for the taxable year;

3. The amount of Kentucky adjusted gross income reported by the taxpayer for the taxable year;

4. The total amount of deductions claimed by all taxpayers for the

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taxable year; and

5. The total number of taxpayers claiming the deduction for the taxable year; and

- (2) Net income shall be calculated by subtracting from adjusted gross income all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as modified by KRS 141.0101, except:
- (a) Any deduction allowed by 26 U.S.C. sec. 164 for taxes;
 - (b) Any deduction allowed by 26 U.S.C. sec. 165 for losses, except wagering losses allowed under Section 165(d) of the Internal Revenue Code;
 - (c) Any deduction allowed by 26 U.S.C. sec. 213 for medical care expenses;
 - (d) Any deduction allowed by 26 U.S.C. sec. 217 for moving expenses;
 - (e) Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous deduction;
 - (f) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that the deduction has not been claimed under KRS 140.090(1)(h);
 - (g) Any deduction allowed by 26 U.S.C. sec. 151 for personal exemptions and any other deductions in lieu thereof;
 - (h) Any deduction allowed for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or

1 establishment or any organization operated solely for charitable or educational
2 purposes which restricts membership to persons of the same religion or
3 denomination in order to promote the religious principles for which it is
4 established and maintained; and

5 (i) A taxpayer may elect to claim the standard deduction allowed by KRS
6 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63
7 and as modified by this section.

8 ➔Section 2. 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. KRS 141.436 for purposes of the energy efficiency products credits;
- 6 3. KRS 141.437 for purposes of the ENERGY STAR home and the
- 7 ENERGY STAR manufactured home credits;
- 8 4. KRS 148.544 for purposes of the film industry incentives;
- 9 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization
- 10 tax credits and the job assessment fees;
- 11 6. KRS 141.068 for purposes of the Kentucky investment fund;
- 12 7. KRS 141.396 for purposes of the angel investor tax credit;
- 13 8. KRS 141.389 for purposes of the distilled spirits credit;
- 14 9. KRS 141.408 for purposes of the inventory credit;
- 15 10. KRS 141.390 for purposes of the recycling and composting credit;
- 16 11. KRS 141.3841 for purposes of the selling farmer tax credit;~~and~~
- 17 12. KRS 141.4231 for purposes of the renewable chemical production tax
- 18 credit; and

19 **13. Section 2 of this Act for the purposes of the deduction of amounts**

20 **contributed to a qualified tuition program.**

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.