

1 AN ACT relating to taxation.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) As used in this section, "tax expenditure" means the estimated amount of*
6 *revenue loss resulting from:*

7 *(a) An exemption, an exclusion, or a deduction from the base of a tax;*

8 *(b) A credit against a tax;*

9 *(c) A deferral of a tax;*

10 *(d) A preferential tax rate;*

11 *(e) A funding source for a specific use, other than normally used for the*
12 *remaining moneys of that source;*

13 *(f) An earmark of tax revenue for a specific use, other than the use of the*
14 *remaining moneys of that tax revenue; or*

15 *(g) Any other tax incentive.*

16 *(2) (a) All tax expenditures enacted after the effective date of this Act shall only*
17 *remain active and apply for a period of time not to exceed four (4) years.*

18 *(b) The four (4) year period of time begins on the effective date of the Act*
19 *establishing the new tax expenditure.*

20 *(c) If the program establishing the tax expenditure:*

21 *1. Requires an application process, that program shall not accept*
22 *applications after the four (4) year period has expired; or*

23 *2. Allows the tax expenditure to be utilized by the taxpayer outside the*
24 *four (4) year period, that program shall govern the use of tax*
25 *expenditure qualifying within the four (4) year period until the tax*
26 *expenditure has been utilized under the program.*

27 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO

1 READ AS FOLLOWS:

2 *(1) The Interim Joint Committee on Appropriations and Revenue shall set aside*
3 *sufficient time during regularly scheduled interim meetings to evaluate the data*
4 *required to be posted to the Web site under Section 3 of this Act related to tax*
5 *expenditures and amounts of incentives claimed by taxpayers.*

6 *(2) During the interim of each odd-numbered year, the Interim Joint Committee on*
7 *Appropriations and Revenue shall provide recommendations for any changes to*
8 *the programs evaluated related to improving the efficiency or effectiveness of the*
9 *tax expenditures evaluated.*

10 ➔Section 3. KRS 154.12-2035 is amended to read as follows:

11 (1) The cabinet shall maintain a searchable electronic database on its Web site
12 containing information on the cost and status of the programs listed in subsection
13 (3)(a) of this section. The database shall include all projects approved at any time in
14 the last five (5) years and shall include for each, where applicable, the following
15 information:

- 16 (a) The name of the program, the recipient or participant, the type of project, and
17 its location by county;
- 18 (b) Total and approved costs of the project or investment, and the amount of
19 incentives or other benefits authorized;
- 20 (c) For the Kentucky Business Investment Program and the Kentucky Enterprise
21 Initiative Act, the amount of incentives or other benefits actually recovered as
22 self-reported by the recipient;
- 23 (d) The number of new jobs estimated and, for the Kentucky Business Investment
24 Program, actually created, along with wage information for those jobs;
- 25 (e) Project status and the date and nature of the most recent activity; and
- 26 (f) Any other comparable data or information necessary to achieve transparency
27 and accountability for the specified programs.

1 (2) In addition to the electronic database required in subsection (1) of this section, the
2 cabinet shall prepare an annual report on the programs listed in subsection (3) of
3 this section and make it available on the Cabinet for Economic Development Web
4 site by November 1 of each year. The report shall include all projects approved in
5 the preceding fiscal year and shall provide for these projects the information
6 specified in subsection (1) of this section plus aggregate data for each program,
7 summary evaluations of program activity and effectiveness, and anything required
8 by statute to be reported for any particular program. The report shall also list all
9 projects that were approved in prior years but active at any time in the preceding
10 fiscal year, although for these projects the report need not provide further data.

11 (3) The following programs shall be subject to the reporting requirements of this
12 section:

13 (a) The electronic database required in subsection (1) of this section shall include:

14 1. ~~[-the-]~~Bluegrass State Skills Corporation, grants-in-aid and skills
15 training investment credit;

16 2. Kentucky Business Investment Program;

17 3. Kentucky Enterprise Initiative Act;

18 4. Office of Entrepreneurship and Small Business Innovation programs;

19 5. Incentives for Energy-related Business Act;

20 6. **All** Kentucky Economic Development Finance Authority **loans and**
21 **grants, including the** small business and direct loan programs;

22 7. **Kentucky angel investment tax credit;**

23 8. **Tax increment financing program, for state participation projects;**

24 9. Kentucky Industrial Revitalization Act;

25 10. Kentucky Reinvestment Act;

26 11. Kentucky Small Business Tax Credit;

27 12. **Kentucky selling farmer tax credit;**

- 1 **13.** Economic development bonds;
- 2 **14.** Kentucky Industrial Development Act;
- 3 **15.** Kentucky Jobs Development Act;
- 4 **16.** Kentucky Jobs Retention Act;~~[the]~~
- 5 **17.** Kentucky Rural Economic Development Act; and
- 6 **18. *Kentucky Investment Fund Act; and***

- 7 (b) The annual report required by subsection (2) of this section shall include all
- 8 programs listed in paragraph (a) of this subsection plus the Kentucky
- 9 Investment Fund Act, and tax increment financing, state participation projects.
- 10 (4) The cabinet shall coordinate with any other agency necessary to supply the
- 11 information required by this section.

12 ➔Section 4. KRS 131.030 is amended to read as follows:

- 13 (1) The department~~[of Revenue]~~ shall exercise all administrative functions of the state
- 14 in relation to the:

- 15 **(a)** State revenue and tax laws;~~[, the]~~
- 16 **(b)** Licensing and registering of motor vehicles;~~[, the]~~
- 17 **(c)** Equalization of tax assessments;~~[, the]~~
- 18 **(d)** Assessment of public utilities and public service corporations for taxes;~~[, the]~~
- 19 **(e)** Assessment of franchises;~~[, the]~~
- 20 **(f)** Supervision of tax collections;~~[,]~~ and~~[the]~~
- 21 **(g)** Enforcement of revenue and tax laws;~~[,]~~

22 either directly or through supervision of tax administration activity in other

23 **agencies**~~[departments]~~ to which the department may commit administration of

24 certain taxes.

- 25 (2) The department shall have all the powers and duties:

- 26 **(a)** With reference to assessment or equalization of the assessment of property~~[~~
- 27 ~~heretofore]~~ exercised or performed by any state board or commission;~~[~~

1 ~~(3) — The department shall have all the powers and duties —~~

2 **(b)** Necessary to consider and settle tax cases under KRS 131.110 and refund
3 claims made under KRS 134.580. The department is encouraged to settle
4 controversies on a fair and equitable basis and shall be authorized to settle tax
5 controversies based on the hazards of litigation applicable to them; **and**—

6 ~~(4) — The department shall have all the powers and duties —~~

7 **(c)** Necessary to collect any debts owed to the Commonwealth, or any local
8 government of the Commonwealth, that are referred to the department by an
9 organizational unit or administrative body in the executive branch of state
10 government, as defined in KRS 12.010, the Court of Justice in the judicial
11 branch of state government, and any local government, under KRS 45.237 and
12 45.241.

13 **(3) (a) In order for the General Assembly to evaluate the efficiency or effectiveness**
14 **of tax incentives, the department shall work jointly with the Cabinet for**
15 **Economic Development to report amounts of tax incentives claimed on**
16 **returns filed by taxpayers.**

17 **(b) The department shall provide, for each taxpayer, by taxable year or period,**
18 **the amount of each tax incentive received as listed in the Cabinet for**
19 **Economic Development's electronic database under Section 3 of this Act.**

20 **(c) The reporting of tax incentives received by taxpayers in prior taxable years**
21 **or periods shall be reported by the department to the Cabinet for Economic**
22 **Development by November 1, 2022, and on an ongoing, monthly basis as**
23 **returns are processed by the department.**

24 ➔Section 5. KRS 131.190 is amended to read as follows:

25 (1) No present or former commissioner or employee of the department, present or
26 former member of a county board of assessment appeals, present or former property
27 valuation administrator or employee, present or former secretary or employee of the

1 Finance and Administration Cabinet, former secretary or employee of the Revenue
2 Cabinet, or any other person, shall intentionally and without authorization inspect or
3 divulge any information acquired by him or her of the affairs of any person, or
4 information regarding the tax schedules, returns, or reports required to be filed with
5 the department or other proper officer, or any information produced by a hearing or
6 investigation, insofar as the information may have to do with the affairs of the
7 person's business.

- 8 (2) The prohibition established by subsection (1) of this section shall not extend to:
- 9 (a) Information required in prosecutions for making false reports or returns of
10 property for taxation, or any other infraction of the tax laws;
 - 11 (b) Any matter properly entered upon any assessment record, or in any way made
12 a matter of public record;
 - 13 (c) Furnishing any taxpayer or his or her properly authorized agent with
14 information respecting his or her own return;
 - 15 (d) Testimony provided by the commissioner or any employee of the department
16 in any court, or the introduction as evidence of returns or reports filed with the
17 department, in an action for violation of state or federal tax laws or in any
18 action challenging state or federal tax laws;
 - 19 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or
20 energy resources assessed under KRS 132.820, or owners of surface land
21 under which the unmined minerals lie, factual information about the owner's
22 property derived from third-party returns filed for that owner's property, under
23 the provisions of KRS 132.820, that is used to determine the owner's
24 assessment. This information shall be provided to the owner on a confidential
25 basis, and the owner shall be subject to the penalties provided in KRS
26 131.990(2). The third-party filer shall be given prior notice of any disclosure
27 of information to the owner that was provided by the third-party filer;

- 1 (f) Providing to a third-party purchaser pursuant to an order entered in a
2 foreclosure action filed in a court of competent jurisdiction, factual
3 information related to the owner or lessee of coal, oil, gas reserves, or any
4 other mineral resources assessed under KRS 132.820. The department may
5 promulgate an administrative regulation establishing a fee schedule for the
6 provision of the information described in this paragraph. Any fee imposed
7 shall not exceed the greater of the actual cost of providing the information or
8 ten dollars (\$10);
- 9 (g) Providing information to a licensing agency, the Transportation Cabinet, or
10 the Kentucky Supreme Court under KRS 131.1817;
- 11 (h) Statistics of gasoline and special fuels gallonage reported to the department
12 under KRS 138.210 to 138.448;
- 13 (i) Providing any utility gross receipts license tax return information that is
14 necessary to administer the provisions of KRS 160.613 to 160.617 to
15 applicable school districts on a confidential basis;
- 16 (j) Providing documents, data, or other information to a third party pursuant to an
17 order issued by a court of competent jurisdiction; or
- 18 (k) Providing information to the Legislative Research Commission under:
- 19 1. KRS 139.519 for purposes of the sales and use tax refund on building
20 materials used for disaster recovery;
- 21 2. KRS 141.436 for purposes of the energy efficiency products credits;
- 22 3. KRS 141.437 for purposes of the ENERGY STAR home and the
23 ENERGY STAR manufactured home credits;
- 24 4. KRS 141.383 for purposes of the film industry incentives;
- 25 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization
26 tax credits and the job assessment fees;
- 27 6. KRS 141.068 for purposes of the Kentucky investment fund;

- 1 7. KRS 141.396 for purposes of the angel investor tax credit;
 - 2 8. KRS 141.389 for purposes of the distilled spirits credit;
 - 3 9. KRS 141.408 for purposes of the inventory credit;
 - 4 10. KRS 141.390 for purposes of the recycling and composting credit;
 - 5 11. KRS 141.3841 for purposes of the selling farmer tax credit;
 - 6 12. KRS 141.4231 for purposes of the renewable chemical production tax
 - 7 credit;
 - 8 13. KRS 141.524 for purposes of the Education Opportunity Account
 - 9 Program tax credit;
 - 10 14. KRS 141.398 for purposes of the development area tax credit; and
 - 11 15. KRS 139.516 for the purposes of the sales and use tax exemption on the
 - 12 commercial mining of cryptocurrency.
- 13 (3) The commissioner shall make available any information for official use only and on
- 14 a confidential basis to the proper officer, agency, board or commission of this state,
- 15 any Kentucky county, any Kentucky city, any other state, or the federal government,
- 16 under reciprocal agreements whereby the department shall receive similar or useful
- 17 information in return.
- 18 (4) Access to and inspection of information received from the Internal Revenue Service
- 19 is for department use only, and is restricted to tax administration purposes.
- 20 Information received from the Internal Revenue Service shall not be made available
- 21 to any other agency of state government, or any county, city, or other state, and shall
- 22 not be inspected intentionally and without authorization by any present secretary or
- 23 employee of the Finance and Administration Cabinet, commissioner or employee of
- 24 the department, or any other person.
- 25 (5) Statistics of crude oil as reported to the department under the crude oil excise tax
- 26 requirements of KRS Chapter 137 and statistics of natural gas production as
- 27 reported to the department under the natural resources severance tax requirements

1 of KRS Chapter 143A may be made public by the department by release to the
2 Energy and Environment Cabinet, Department for Natural Resources.

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

12 **(7) The prohibition established by subsection (1) of this section shall not extend to**
13 **any information required to be posted on a Web site by the department and the**
14 **Cabinet for Economic Development under Section 3 or 4 of this Act.**

15 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO
16 READ AS FOLLOWS:

17 **The racing commission shall maintain on its Web site monthly reports of the excise**
18 **taxes imposed under KRS Chapters 138 and 230, by race track and revenue source,**
19 **including:**

20 **(1) The amount of moneys earmarked for the various development funds,**
21 **improvement funds, track or purse allocations, and research or industry**
22 **programs, where the moneys are appropriated by statute instead of through**
23 **biennial appropriations;**

24 **(2) The amount of moneys deposited in the general fund;**

25 **(3) A comparison of total taxable handle, by type of handle, displayed as:**

26 **(a) 1. The current month amounts;**

27 **2. Compared to same month amounts of the prior fiscal year; and**

- 1 3. The percentage change between the two (2) monthly amounts; and
- 2 **(b) 1. The year-to-date total for the current fiscal year;**
- 3 2. Compared to the year-to-date total for the prior fiscal year; and
- 4 3. The percentage change between the two (2) year-to-date totals;
- 5 **(4) A comparison of the total excise tax, by use or type of fund, displayed as:**
- 6 **(a) 1. The current month amounts;**
- 7 2. Compared to same month amounts of the prior fiscal year; and
- 8 3. The percentage change between the two (2) monthly amounts; and
- 9 **(b) 1. The year-to-date total for the current fiscal year;**
- 10 2. Compared to the year-to-date total for the prior fiscal year; and
- 11 3. The percentage change between the two (2) year-to-date totals;
- 12 **(5) A report detailing total live racing and simulcast wagering, displayed as:**
- 13 **(a) 1. The current month amounts;**
- 14 2. Compared to same month amounts of the prior fiscal year; and
- 15 3. The percentage change between the two (2) monthly amounts; and
- 16 **(b) 1. The year-to-date total for the current fiscal year;**
- 17 2. Compared to the year-to-date total for the prior fiscal year; and
- 18 3. The percentage change between the two (2) year-to-date totals;
- 19 **(6) A report detailing live racing and simulcast wagering by race track, displayed as:**
- 20 **(a) 1. The current month amounts;**
- 21 2. Compared to same month amounts of the prior fiscal year; and
- 22 3. The percentage change between the two (2) monthly amounts; and
- 23 **(b) 1. The year-to-date total for the current fiscal year;**
- 24 2. Compared to the year-to-date total for the prior fiscal year; and
- 25 3. The percentage change between the two (2) year-to-date totals;
- 26 **(7) A report detailing Kentucky resident advance deposit wagering, including the**
- 27 **total in-state handle, the total out-of-state handle, and the total of all advance**

1 deposit wagering handle, displayed as:

2 (a) 1. The current month amounts;

3 2. Compared to same month amounts of the prior fiscal year; and

4 3. The percentage change between the two (2) monthly amounts; and

5 (b) 1. The year-to-date total for the current fiscal year;

6 2. Compared to the year-to-date total for the prior fiscal year; and

7 3. The percentage change between the two (2) year-to-date totals;

8 (8) A report detailing Kentucky resident advance deposit wagering by account holder,
9 displayed as:

10 (a) The percentage of total wagered for the month for each account holder;

11 (b) 1. The current month amounts;

12 2. Compared to same month amounts of the prior fiscal year; and

13 3. The percentage change between the two (2) monthly amounts;

14 (c) The percentage of total wagered for the year-to-date total for the current
15 fiscal year; and

16 (d) 1. The year-to-date total for the current fiscal year;

17 2. Compared to the year-to-date total for the prior fiscal year; and

18 3. The percentage change between the two (2) year-to-date totals;

19 (9) A report detailing the total Kentucky historical horse racing data, displayed as:

20 (a) 1. The current month amounts;

21 2. Compared to same month amounts of the prior fiscal year; and

22 3. The percentage change between the two (2) monthly amounts; and

23 (b) 1. The year-to-date total for the current fiscal year;

24 2. Compared to the year-to-date total for the prior fiscal year; and

25 3. The percentage change between the two (2) year-to-date totals; and

26 (10) A report detailing the total Kentucky historical horse racing data by historical
27 horse racing location, displayed as:

- 1 (a) 1. The current month amounts;
 2 2. Compared to same month amounts of the prior fiscal year; and
 3 3. The percentage change between the two (2) monthly amounts; and
 4 (b) 1. The year-to-date total for the current fiscal year;
 5 2. Compared to the year-to-date total for the prior fiscal year; and
 6 3. The percentage change between the two (2) year-to-date totals.

7 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO
 8 READ AS FOLLOWS:

9 (1) Notwithstanding KRS 134.580(3) and 139.770, a person engaged in
 10 manufacturing or industrial processing at a plant facility located in this state may
 11 apply for a refund equal to the amount of Kentucky sales or use tax paid on the
 12 purchase of machinery for new and expanded industry on or after August 1,
 13 2022, and before August 1, 2026, reduced by the amount of vendor compensation
 14 allowed under KRS 139.570.

15 (2) The person engaged in manufacturing or industrial processing shall file an
 16 application for preapproval with the department, on a form provided by the
 17 department, prior to purchasing machinery for new and expanded industry that
 18 shall include:

- 19 (a) A listing of the machinery to be purchased;
 20 (b) The estimated cost of the machinery; and
 21 (c) Any other information the department may require.

22 (3) The department shall acknowledge receipt of the application for preapproval
 23 within thirty (30) days of receipt.

24 (4) The person engaged in manufacturing or industrial processing shall file an
 25 application for refund within four (4) years from the date the machinery was
 26 purchased under KRS 134.580. The application shall include documentation that
 27 the:

1 (a) Machinery meets the requirements of machinery for new and expanded
2 industry; and

3 (b) Kentucky sales and use tax was paid on the purchase of the machinery.

4 (5) The burden of proof that the purchase of the machinery qualifies for the
5 incentive provided under this section shall be upon the applicant.

6 (6) Interest shall not be allowed or paid on any refund made under this section.

7 (7) (a) In order for the General Assembly to evaluate the effectiveness of tax
8 incentives under this section, the department shall provide the following
9 information about the taxpayers receiving tax incentives and the amounts of
10 tax incentives received:

11 1. The name and address of the taxpayer;

12 2. The location, by county, of the plant facility where the machinery for
13 new and expanded industry was installed;

14 3. Whether the machinery was:

15 a. Incorporated for the first time into new or existing plant
16 facilities; or

17 b. Installed in the place of existing plant machinery having a lesser
18 productive capacity;

19 4. If the machinery increases the productive capacity, a description of
20 how the machinery:

21 a. Increases the consumption of recycled materials at the plant
22 facility;

23 b. Performs a different function;

24 c. Is used to manufacture a different product; or

25 d. Has a greater productive capacity; and

26 5. The amount of refund received.

27 (b) The information required under paragraph (a) of this subsection shall be

1 *submitted to the Interim Joint Committee on Appropriations and Revenue*
2 *by the department no later than July 1, 2023, and on each July 1 annually*
3 *thereafter, as long as any sales and use tax refund is made by the*
4 *department for this tax incentive.*

5 ➔Section 8. KRS 139.480 is amended to read as follows:

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

9 (1) Locomotives or rolling stock, including materials for the construction, repair, or
10 modification thereof, or fuel or supplies for the direct operation of locomotives and
11 trains, used or to be used in interstate commerce;

12 (2) Coal for the manufacture of electricity;

13 (3) (a) All energy or energy-producing fuels used in the course of manufacturing,
14 processing, mining, or refining and any related distribution, transmission, and
15 transportation services for this energy that are billed to the user, to the extent
16 that the cost of the energy or energy-producing fuels used, and related
17 distribution, transmission, and transportation services for this energy that are
18 billed to the user exceed three percent (3%) of the cost of production.

19 (b) Cost of production shall be computed on the basis of a plant facility, which
20 shall include all operations within the continuous, unbroken, integrated
21 manufacturing or industrial processing process that ends with a product
22 packaged and ready for sale.

23 (c) A person who performs a manufacturing or industrial processing activity for a
24 fee and does not take ownership of the tangible personal property that is
25 incorporated into, or becomes the product of, the manufacturing or industrial
26 processing activity is a toller. For periods on or after July 1, 2018, the costs of
27 the tangible personal property shall be excluded from the toller's cost of

1 production at a plant facility with tolling operations in place as of July 1,
2 2018.

3 (d) For plant facilities that begin tolling operations after July 1, 2018, the costs of
4 tangible personal property shall be excluded from the toller's cost of
5 production if the toller:

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

1 plant facility.

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

1 (b) Includes machinery, attachments, and replacements therefor, repair parts, and
2 replacement parts which are used or manufactured for use on, or in the
3 operation of farm machinery and which are necessary to the operation of the
4 machinery, and are customarily so used, including but not limited to combine
5 header wagons, combine header trailers, or any other implements specifically
6 designed and used to move or transport a combine head; and

7 (c) Does not include:

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

12 ~~(11)~~~~(12)~~ Tombstones and other memorial grave markers;

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

17 ~~(13)~~~~(14)~~ On-farm facilities used exclusively for raising poultry or livestock. The
18 exemption shall apply to the equipment, machinery, attachments, repair and
19 replacement parts, and any materials incorporated into the construction, renovation,
20 or repair of the facilities. The exemption shall apply but not be limited to vent board
21 equipment, waterer and feeding systems, brooding systems, ventilation systems,
22 alarm systems, and curtain systems. In addition, the exemption shall apply whether
23 or not the seller is under contract to deliver, assemble, and incorporate into real
24 estate the equipment, machinery, attachments, repair and replacement parts, and any
25 materials incorporated into the construction, renovation, or repair of the facilities;

26 ~~(14)~~~~(15)~~ Gasoline, special fuels, liquefied petroleum gas, and natural gas used
27 exclusively and directly to:

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

1 project, as defined by KRS 154.26-010; and

2 2. Materials, supplies, and repair or replacement parts purchased for use in
3 the operation and maintenance of a blast furnace and related carbon
4 steel-making operations as part of an approved supplemental project, as
5 defined by KRS 154.26-010.

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

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

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

10 ~~(20)~~~~(21)~~ Beginning on October 1, 1986, food or food products purchased for human
11 consumption with food coupons issued by the United States Department of
12 Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to
13 be exempted by the Food Security Act of 1985 in order for the Commonwealth to
14 continue participation in the federal food stamp program;

15 ~~(21)~~~~(22)~~ Machinery or equipment purchased or leased by a business, industry, or
16 organization in order to collect, source separate, compress, bale, shred, or otherwise
17 handle waste materials if the machinery or equipment is primarily used for recycling
18 purposes;

19 ~~(22)~~~~(23)~~ Ratite birds and eggs to be used in an agricultural pursuit for the breeding and
20 production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-
21 products, and the following items used in this agricultural pursuit:

22 (a) Feed and feed additives;

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

24 (c) On-farm facilities, including equipment, machinery, attachments, repair and
25 replacement parts, and any materials incorporated into the construction,
26 renovation, or repair of the facilities. The exemption shall apply to incubation
27 systems, egg processing equipment, waterer and feeding systems, brooding

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

6 ~~(23)~~~~(24)~~ Embryos and semen that are used in the reproduction of livestock, if the
7 products of these embryos and semen ordinarily constitute food for human
8 consumption, and if the sale is made to a person engaged in the business of farming;

9 ~~(24)~~~~(25)~~ Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit
10 for the breeding and production of hides, breeding stock, fiber and wool products,
11 meat, and llama and alpaca by-products, and the following items used in this
12 pursuit:

13 (a) Feed and feed additives;

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

16 (c) On-farm facilities, including equipment, machinery, attachments, repair and
17 replacement parts, and any materials incorporated into the construction,
18 renovation, or repair of the facilities. The exemption shall apply to waterer
19 and feeding systems, ventilation systems, and alarm systems. In addition, the
20 exemption shall apply whether or not the seller is under contract to deliver,
21 assemble, and incorporate into real estate the equipment, machinery,
22 attachments, repair and replacement parts, and any materials incorporated into
23 the construction, renovation, or repair of the facilities;

24 ~~(25)~~~~(26)~~ Baling twine and baling wire for the baling of hay and straw;

25 ~~(26)~~~~(27)~~ Water sold to a person regularly engaged in the business of farming and used
26 in the:

27 (a) Production of crops;

- 1 (b) Production of milk for sale; or
- 2 (c) Raising and feeding of:
- 3 1. Livestock or poultry, the products of which ordinarily constitute food for
- 4 human consumption; or
- 5 2. Ratites, llamas, alpacas, buffalo, cervids or aquatic organisms;
- 6 ~~(27)~~~~(28)~~ Buffalos to be used as beasts of burden or in an agricultural pursuit for the
- 7 production of hides, breeding stock, meat, and buffalo 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 farm chemicals;
- 11 (c) On-farm facilities, including equipment, machinery, attachments, repair and
- 12 replacement parts, and any materials incorporated into the construction,
- 13 renovation, or repair of the facilities. The exemption shall apply to waterer
- 14 and feeding systems, ventilation systems, and alarm systems. In addition, the
- 15 exemption shall apply whether or not the seller is under contract to deliver,
- 16 assemble, and incorporate into real estate the equipment, machinery,
- 17 attachments, repair and replacement parts, and any materials incorporated into
- 18 the construction, renovation, or repair of the facilities;
- 19 ~~(28)~~~~(29)~~ Aquatic organisms sold directly to or raised by a person regularly engaged in
- 20 the business of producing products of aquaculture, as defined in KRS 260.960, for
- 21 sale, and the following items used in this pursuit:
- 22 (a) Feed and feed additives;
- 23 (b) Water;
- 24 (c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
- 25 and
- 26 (d) On-farm facilities, including equipment, machinery, attachments, repair and
- 27 replacement parts, and any materials incorporated into the construction,

1 renovation, or repair of the facilities and, any gasoline, special fuels, liquefied
2 petroleum gas, or natural gas used to operate the facilities. The exemption
3 shall apply, but not be limited to: waterer and feeding systems; ventilation,
4 aeration, and heating systems; processing and storage systems; production
5 systems such as ponds, tanks, and raceways; harvest and transport equipment
6 and systems; and alarm systems. In addition, the exemption shall apply
7 whether or not the seller is under contract to deliver, assemble, and
8 incorporate into real estate the equipment, machinery, attachments, repair and
9 replacement parts, and any materials incorporated into the construction,
10 renovation, or repair of the facilities;

11 ~~(29)~~~~(30)~~ Members of the genus cervidae permitted by KRS Chapter 150 that are used
12 for the production of hides, breeding stock, meat, and cervid by-products, and the
13 following items used in this pursuit:

- 14 (a) Feed and feed additives;
- 15 (b) Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and
- 16 (c) On-site facilities, including equipment, machinery, attachments, repair and
17 replacement parts, and any materials incorporated into the construction,
18 renovation, or repair of the facilities. In addition, the exemption shall apply
19 whether or not the seller is under contract to deliver, assemble, and
20 incorporate into real estate the equipment, machinery, attachments, repair and
21 replacement parts, and any materials incorporated into the construction,
22 renovation, or repair of the facilities;

23 ~~(30)~~~~(31)~~ (a) Repair or replacement parts for the direct operation or maintenance of a
24 motor vehicle, including any towed unit, used exclusively in interstate
25 commerce for the conveyance of property or passengers for hire, provided the
26 motor vehicle is licensed for use on the highway and its declared gross vehicle
27 weight with any towed unit is forty-four thousand and one (44,001) pounds or

1 greater. Nominal intrastate use shall not subject the property to the taxes
2 imposed by this chapter;

3 (b) Repair or replacement parts for the direct operation and maintenance of a
4 motor vehicle operating under a charter bus certificate issued by the
5 Transportation Cabinet under KRS Chapter 281, or under similar authority
6 granted by the United States Department of Transportation; and

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

15 ~~(31)~~~~(32)~~ Food donated by a retail food establishment or any other entity regulated
16 under KRS 217.127 to a nonprofit organization for distribution to the needy.

17 ➔Section 9. KRS 141.434 is amended to read as follows:

18 (1) There is hereby created a Kentucky New Markets Development Program tax credit.

19 (2) A person or entity that makes a qualified equity investment earns a vested right to
20 the tax credit created by subsection (1) of this section. The amount of the credit
21 shall be equal to thirty-nine percent (39%) of the purchase price of the qualified
22 equity investment made by the person or entity claiming the credit. The tax credit
23 may be utilized as follows:

24 (a) The holder of the qualified equity investment on a particular credit allowance
25 date of the qualified equity investment, whether it be the original purchaser or
26 subsequent holder of the qualified equity investment, may utilize a portion of
27 the tax credit against its tax liability for the taxable year that includes the

1 credit allowance date equal to the applicable percentage for the credit
2 allowance date multiplied by the purchase price paid for the qualified equity
3 investment;

4 (b) Any tax credit that a taxpayer may not utilize during a particular year may be
5 carried forward for use in any subsequent tax year; and

6 (c) An insurance company claiming a tax credit against the insurance premium
7 tax is not required to pay additional retaliatory tax levied pursuant to KRS
8 304.3-270.

9 (3) No tax credit claimed under this section may be sold or transferred. Tax credits that
10 a partnership, limited liability company, S corporation, or other pass-through entity
11 claims may be allocated to the partners, members, or shareholders of the entity for
12 their direct use in accordance with the provisions of any agreement among the
13 partners, members, or shareholders.

14 (4) The total amount of tax credits that may be awarded by the department pursuant to
15 KRS 141.432 to 141.434 shall be limited to ten million dollars (\$10,000,000) in
16 each fiscal year. On or after July 1, 2026, or once the department has certified a
17 cumulative amount of qualified equity investments that can result in the utilization
18 of this total amount of tax credits in a fiscal year, the department ~~shall~~~~may~~ not
19 certify any more qualified equity investments. This limitation on qualified equity
20 investments shall be based on scheduled utilization of tax credits without regard to
21 the potential for taxpayers to carry forward tax credits to subsequent tax years.

22 (5) (a) In order for the General Assembly to evaluate the effectiveness of the tax
23 credit under this section, the department shall provide the following
24 information on a cumulative basis for each taxable year to provide a
25 historical impact of the tax credit to the Commonwealth:

26 1. The name and address of each qualified community development
27 entity with which an equity investment is made by a taxpayer;

- 1 2. All information received by the department under KRS 141.433 related
- 2 to the qualified community development entity relevant to evaluating
- 3 the effectiveness of the tax incentive;
- 4 3. The name and address of each taxpayer claiming a tax credit for
- 5 investments made with each qualified community development entity;
- 6 4. The amount of tax credit received; and
- 7 5. The amount of tax credit carried forward to a subsequent taxable year.
- 8 (b) The information required under paragraph (a) of this subsection shall be
- 9 submitted to the Interim Joint Committee on Appropriations and Revenue
- 10 by the department no later than November 1, 2022, and on each November
- 11 1 annually thereafter, as long as the tax incentive is claimed on any return
- 12 processed by the department.

13 ➔Section 10. KRS 139.470 is amended to read as follows:

14 There are excluded from the computation of the amount of taxes imposed by this chapter:

- 15 (1) Gross receipts from the sale of, and the storage, use, or other consumption in this
- 16 state of, tangible personal property or digital property which this state is prohibited
- 17 from taxing under the Constitution or laws of the United States, or under the
- 18 Constitution of this state;
- 19 (2) Gross receipts from sales of, and the storage, use, or other consumption in this state
- 20 of:
- 21 (a) Nonreturnable and returnable containers when sold without the contents to
- 22 persons who place the contents in the container and sell the contents together
- 23 with the container; and
- 24 (b) Returnable containers when sold with the contents in connection with a retail
- 25 sale of the contents or when resold for refilling;

26 As used in this section the term "returnable containers" means containers of a kind
27 customarily returned by the buyer of the contents for reuse. All other containers are

- 1 "nonreturnable containers";
- 2 (3) Gross receipts from occasional sales of tangible personal property or digital
3 property and the storage, use, or other consumption in this state of tangible personal
4 property or digital property, the transfer of which to the purchaser is an occasional
5 sale;
- 6 (4) Gross receipts from sales of tangible personal property to a common carrier,
7 shipped by the retailer via the purchasing carrier under a bill of lading, whether the
8 freight is paid in advance or the shipment is made freight charges collect, to a point
9 outside this state and the property is actually transported to the out-of-state
10 destination for use by the carrier in the conduct of its business as a common carrier;
- 11 (5) Gross receipts from sales of tangible personal property sold through coin-operated
12 bulk vending machines, if the sale amounts to fifty cents (\$0.50) or less, if the
13 retailer is primarily engaged in making the sales and maintains records satisfactory
14 to the department. As used in this subsection, "bulk vending machine" means a
15 vending machine containing unsorted merchandise which, upon insertion of a coin,
16 dispenses the same in approximately equal portions, at random and without
17 selection by the customer;
- 18 (6) Gross receipts from sales to any cabinet, department, bureau, commission, board, or
19 other statutory or constitutional agency of the state and gross receipts from sales to
20 counties, cities, or special districts as defined in KRS 65.005. This exemption shall
21 apply only to purchases of tangible personal property, digital property, or services
22 for use solely in the government function. A purchaser not qualifying as a
23 governmental agency or unit shall not be entitled to the exemption even though the
24 purchaser may be the recipient of public funds or grants;
- 25 (7) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky
26 residents for use in heating, water heating, cooking, lighting, and other
27 residential uses. As used in this subsection, "fuel" shall include but not be

1 limited to natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood.
2 Determinations of eligibility for the exemption shall be made by the
3 department;

4 (b) In making the determinations of eligibility, the department shall exempt from
5 taxation all gross receipts derived from sales:

- 6 1. Classified as "residential" by a utility company as defined by applicable
7 tariffs filed with and accepted by the Public Service Commission;
- 8 2. Classified as "residential" by a municipally owned electric distributor
9 which purchases its power at wholesale from the Tennessee Valley
10 Authority;
- 11 3. Classified as "residential" by the governing body of a municipally owned
12 electric distributor which does not purchase its power from the
13 Tennessee Valley Authority, if the "residential" classification is
14 reasonably consistent with the definitions of "residential" contained in
15 tariff filings accepted and approved by the Public Service Commission
16 with respect to utilities which are subject to Public Service Commission
17 regulation.

18 If the service is classified as residential, use other than for "residential"
19 purposes by the customer shall not negate the exemption;

20 (c) The exemption shall not apply if charges for sewer service, water, and fuel are
21 billed to an owner or operator of a multi-unit residential rental facility or
22 mobile home and recreational vehicle park other than residential
23 classification; and

24 (d) The exemption shall apply also to residential property which may be held by
25 legal or equitable title, by the entireties, jointly, in common, as a
26 condominium, or indirectly by the stock ownership or membership
27 representing the owner's or member's proprietary interest in a corporation

1 owning a fee or a leasehold initially in excess of ninety-eight (98) years;

2 (8) Gross receipts from sales to an out-of-state agency, organization, or institution
3 exempt from sales and use tax in its state of residence when that agency,
4 organization, or institution gives proof of its tax-exempt status to the retailer and the
5 retailer maintains a file of the proof;

6 (9) (a) Gross receipts derived from the sale of tangible personal property, as provided
7 in paragraph (b) of this subsection, to a manufacturer or industrial processor if
8 the property is to be directly used in the manufacturing or industrial
9 processing process of:

- 10 1. Tangible personal property at a plant facility;
- 11 2. Distilled spirits or wine at a plant facility or on the premises of a
12 distiller, rectifier, winery, or small farm winery licensed under KRS
13 243.030 that includes a retail establishment on the premises; or
- 14 3. Malt beverages at a plant facility or on the premises of a brewer or
15 microbrewery licensed under KRS 243.040 that includes a retail
16 establishment;

17 and which will be for sale.

18 (b) The following tangible personal property shall qualify for exemption under
19 this subsection:

- 20 1. Materials which enter into and become an ingredient or component part
21 of the manufactured product;
- 22 2. Other tangible personal property which is directly used in the
23 manufacturing or industrial processing process, if the property has a
24 useful life of less than one (1) year. Specifically these items are
25 categorized as follows:

26 a. Materials. This refers to the raw materials which become an
27 ingredient or component part of supplies or industrial tools exempt

- 1 under subdivisions b. and c. below;
- 2 b. Supplies. This category includes supplies such as lubricating and
3 compounding oils, grease, machine waste, abrasives, chemicals,
4 solvents, fluxes, anodes, filtering materials, fire brick, catalysts,
5 dyes, refrigerants, and explosives. The supplies indicated above
6 need not come in direct contact with a manufactured product to be
7 exempt. "Supplies" does not include repair, replacement, or spare
8 parts of any kind; and
- 9 c. Industrial tools. This group is limited to hand tools such as jigs,
10 dies, drills, cutters, rolls, reamers, chucks, saws, and spray guns
11 and to tools attached to a machine such as molds, grinding balls,
12 grinding wheels, dies, bits, and cutting blades. Normally, for
13 industrial tools to be considered directly used in the manufacturing
14 or industrial processing process, they shall come into direct contact
15 with the product being manufactured or processed; and
- 16 3. Materials and supplies that are not reusable in the same manufacturing
17 or industrial processing process at the completion of a single
18 manufacturing or processing cycle. A single manufacturing cycle shall
19 be considered to be the period elapsing from the time the raw materials
20 enter into the manufacturing process until the finished product emerges
21 at the end of the manufacturing process.
- 22 (c) The property described in paragraph (b) of this subsection shall be regarded as
23 having been purchased for resale.
- 24 (d) For purposes of this subsection, a manufacturer or industrial processor
25 includes an individual or business entity that performs only part of the
26 manufacturing or industrial processing activity, and the person or business
27 entity need not take title to tangible personal property that is incorporated into,

1 or becomes the product of, the activity.

2 (e) The exemption provided in this subsection does not include repair,
3 replacement, or spare parts;

4 (10) Any water use fee paid or passed through to the Kentucky River Authority by
5 facilities using water from the Kentucky River basin to the Kentucky River
6 Authority in accordance with KRS 151.700 to 151.730 and administrative
7 regulations promulgated by the authority;

8 (11) Gross receipts from the sale of newspaper inserts or catalogs purchased for storage,
9 use, or other consumption outside this state and delivered by the retailer's own
10 vehicle to a location outside this state, or delivered to the United States Postal
11 Service, a common carrier, or a contract carrier for delivery outside this state,
12 regardless of whether the carrier is selected by the purchaser or retailer or an agent
13 or representative of the purchaser or retailer, or whether the F.O.B. is retailer's
14 shipping point or purchaser's destination.

15 (a) As used in this subsection:

16 1. "Catalogs" means tangible personal property that is printed to the special
17 order of the purchaser and composed substantially of information
18 regarding goods and services offered for sale; and

19 2. "Newspaper inserts" means printed materials that are placed in or
20 distributed with a newspaper of general circulation.

21 (b) The retailer shall be responsible for establishing that delivery was made to a
22 non-Kentucky location through shipping documents or other credible evidence
23 as determined by the department;

24 (12) Gross receipts from the sale of water used in the raising of equine as a business;

25 (13) Gross receipts from the sale of metal retail fixtures manufactured in this state and
26 purchased for storage, use, or other consumption outside this state and delivered by
27 the retailer's own vehicle to a location outside this state, or delivered to the United

1 States Postal Service, a common carrier, or a contract carrier for delivery outside
2 this state, regardless of whether the carrier is selected by the purchaser or retailer or
3 an agent or representative of the purchaser or retailer, or whether the F.O.B. is the
4 retailer's shipping point or the purchaser's destination.

5 (a) As used in this subsection, "metal retail fixtures" means check stands and
6 belted and nonbelted checkout counters, whether made in bulk or pursuant to
7 specific purchaser specifications, that are to be used directly by the purchaser
8 or to be distributed by the purchaser.

9 (b) The retailer shall be responsible for establishing that delivery was made to a
10 non-Kentucky location through shipping documents or other credible evidence
11 as determined by the department;

12 (14) Gross receipts from the sale of unenriched or enriched uranium purchased for
13 ultimate storage, use, or other consumption outside this state and delivered to a
14 common carrier in this state for delivery outside this state, regardless of whether the
15 carrier is selected by the purchaser or retailer, or is an agent or representative of the
16 purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or
17 purchaser's destination;

18 (15) Amounts received from a tobacco buydown. As used in this subsection, "buydown"
19 means an agreement whereby an amount, whether paid in money, credit, or
20 otherwise, is received by a retailer from a manufacturer or wholesaler based upon
21 the quantity and unit price of tobacco products sold at retail that requires the retailer
22 to reduce the selling price of the product to the purchaser without the use of a
23 manufacturer's or wholesaler's coupon or redemption certificate;

24 (16) Gross receipts from the sale of tangible personal property or digital property
25 returned by a purchaser when the full sales price is refunded either in cash or credit.
26 This exclusion shall not apply if the purchaser, in order to obtain the refund, is
27 required to purchase other tangible personal property or digital property at a price

- 1 greater than the amount charged for the property that is returned;
- 2 (17) Gross receipts from the sales of gasoline and special fuels subject to tax under KRS
3 Chapter 138;
- 4 (18) The amount of any tax imposed by the United States upon or with respect to retail
5 sales, whether imposed on the retailer or the consumer, not including any
6 manufacturer's excise or import duty;
- 7 (19) Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which
8 is:
- 9 (a) Sold to a Kentucky resident, registered for use on the public highways, and
10 upon which any applicable tax levied by KRS 138.460 has been paid; or
- 11 (b) Sold to a nonresident of Kentucky if the nonresident registers the motor
12 vehicle in a state that:
- 13 1. Allows residents of Kentucky to purchase motor vehicles without
14 payment of that state's sales tax at the time of sale; or
- 15 2. Allows residents of Kentucky to remove the vehicle from that state
16 within a specific period for subsequent registration and use in Kentucky
17 without payment of that state's sales tax;
- 18 (20) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and
19 trailer as defined in KRS 189.010(17);
- 20 (21) Gross receipts from the collection of:
- 21 (a) Any fee or charge levied by a local government pursuant to KRS 65.760;
- 22 (b) The charge imposed by KRS 65.7629(3);
- 23 (c) The fee imposed by KRS 65.7634; and
- 24 (d) The service charge imposed by KRS 65.7636;
- 25 (22) Gross receipts derived from charges for labor or services to apply, install, repair, or
26 maintain tangible personal property directly used in manufacturing or industrial
27 processing process of:

- 1 (a) Tangible personal property at a plant facility;
- 2 (b) Distilled spirits or wine at a plant facility or on the premises of a distiller,
- 3 rectifier, winery, or small farm winery licensed under KRS 243.030; or
- 4 (c) Malt beverages at a plant facility or on the premises of a brewer or
- 5 microbrewery licensed under KRS 243.040

6 that is not otherwise exempt under subsection (9) of this section~~[or KRS~~

7 ~~139.480(10)]~~, if the charges for labor or services are separately stated on the

8 invoice, bill of sale, or similar document given to purchaser;

9 (23) (a) For persons selling services included in KRS 139.200(2)(g) to (q) prior to

10 January 1, 2019, gross receipts derived from the sale of those services if the

11 gross receipts were less than six thousand dollars (\$6,000) during calendar

12 year 2018. When gross receipts from these services exceed six thousand

13 dollars (\$6,000) in a calendar year:

- 14 1. All gross receipts over six thousand dollars (\$6,000) are taxable in that
- 15 calendar year; and
- 16 2. All gross receipts are subject to tax in subsequent calendar years.

17 (b) The exemption provided in this subsection shall not apply to a person also

18 engaged in the business of selling tangible personal property, digital property,

19 or services included in KRS 139.200(2)(a) to (f); and

20 (24) (a) For persons that first begin making sales of services included in KRS

21 139.200(2)(g) to (q) on or after January 1, 2019, gross receipts derived from

22 the sale of those services if the gross receipts are less than six thousand dollars

23 (\$6,000) within the first calendar year of operation. When gross receipts from

24 these services exceed six thousand dollars (\$6,000) in a calendar year:

- 25 1. All gross receipts over six thousand dollars (\$6,000) are taxable in that
- 26 calendar year; and
- 27 2. All gross receipts are subject to tax in subsequent calendar years.

1 (b) The exemption provided in this subsection shall not apply to a person that is
2 also engaged in the business of selling tangible personal property, digital
3 property, or services included in KRS 139.200(2)(a) to (f).

4 ➔Section 11. KRS 139.481 is amended to read as follows:

5 (1) On and after January 1, 2022, every person claiming an exemption provided under
6 KRS 139.480(4) to (9), KRS 139.480(~~10~~)(~~11~~), KRS 139.480(~~12~~)(~~13~~) to
7 (~~14~~)(~~15~~), and KRS 139.480(~~22~~)(~~23~~) to (~~29~~)(~~30~~) shall include on the
8 appropriate exemption certificate an agriculture exemption number issued by the
9 department.

10 (2) A person is eligible to apply for an agriculture exemption number if the person is:

11 (a) Regularly engaged in the occupation of tilling and cultivating the soil for the
12 production of crops as a business;

13 (b) Regularly engaged in the occupation of raising and feeding livestock of a kind
14 the products of which ordinarily constitute food for human consumption;

15 (c) Raising and feeding poultry;

16 (d) Producing milk for sale; or

17 (e) Regularly engaged in raising ratite birds, llamas, alpacas, buffalos, cervids, or
18 aquatic organisms as an agricultural pursuit.

19 (3) (a) On and after January 1, 2022, persons that receive an agriculture exemption
20 number and choose to claim the exemptions outlined in subsection (1) of this
21 section shall, at least one (1) time, provide the seller or retailer from whom
22 they purchase exempt tangible personal property with one (1) of the
23 following:

24 1. A fully completed exemption certificate, as prescribed by the
25 department, which shall contain the agriculture exemption number
26 issued by the department; or

27 2. A fully completed Streamlined Sales Tax Certificate of Exemption

1 which shall include the agriculture exemption number.

2 (b) A purchaser that has met the requirements of paragraph (a) of this subsection
3 may issue the agriculture exemption number to the seller or retailer for
4 subsequent purchases as evidence of an exempt purchase for as long as the
5 agriculture exemption number is valid.

6 (c) Persons that meet the requirements of subsection (2) of this section but have
7 not yet received an agriculture exemption number from the department prior
8 to January 1, 2022, may issue a fully completed exemption certificate without
9 the agriculture exemption number prior to July 1, 2022.

10 (4) (a) On or before April 1, 2021, the department, by administrative regulation, shall
11 develop an application form for the agriculture exemption number and
12 procedures by which the application form may also be submitted either
13 electronically or by paper filing no later than January 1, 2022.

14 (b) The application shall include:

- 15 1. The person's name and mailing address;
- 16 2. The farm address, if different from the person's mailing address;
- 17 3. An affirmation that the person meets at least one (1) of the criteria
18 outlined in subsection (2) of this section;
- 19 4. The person's driver's license number; and
- 20 5. One (1) of the following forms of documentation:
 - 21 a. IRS Schedule F, Profit or Loss from Farming;
 - 22 b. IRS Form 4835, Farm Rental Income and Expenses;
 - 23 c. The farm service agency number or numbers assigned by the
24 United States Department of Agriculture pertaining to the parcels
25 of land on which agriculture activity will take place; or
 - 26 d. Any other type of information that may establish to the satisfaction
27 of the Commissioner that the applicant qualifies for the agriculture

1 exemption number.

2 (5) (a) The agriculture exemption number shall expire three (3) years from the date
3 that the number is issued by the department or when the person ceases to
4 engage in the agriculture activity for which the agriculture exemption number
5 was granted, whichever comes first.

6 (b) The person may apply for a renewal of the agriculture exemption number prior
7 to the expiration date if the person continues to meet the requirements of
8 subsection (2) of this section and provides documentation required by
9 subsection (4)(b)5. of this section. The department shall, by administrative
10 regulation, prescribe the electronic process for renewing an agriculture
11 exemption number.

12 (6) (a) On or before July 1, 2022, the department shall develop and provide an online
13 searchable database on the department's Web site that the seller or retailer may
14 use to confirm the agriculture exemption number if the purchaser cannot
15 produce documentation of the agriculture exemption number at the time of
16 sale.

17 (b) To search the database, the seller or retailer shall provide the name of the
18 person assigned the agriculture exemption number and one (1) of the
19 following:

- 20 1. The agriculture exemption number;
- 21 2. The agriculture exemption number expiration date;
- 22 3. The person's driver's license number;
- 23 4. The farm service agency parcel number; or
- 24 5. Any other unique identifier that may be accepted by the department.

25 (c) The seller or retailer shall be relieved of the liability for collecting and
26 remitting the sales and use tax if the seller or retailer meets the requirements
27 of KRS 139.260 and 139.270.

1 ➔Section 12. Section 8 of this Act takes effect August 1, 2022.