

1 AN ACT relating to sales and use tax.

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

3 ➔Section 1. KRS 139.200 is amended to read as follows:

4 **(1)** A tax is hereby imposed upon all retailers at the rate **provided under subsection (2)**  
5 **of this section applied to**~~of six percent (6%) of~~ the gross receipts derived from:

6 **(a)**~~(1)~~ Retail sales of:

7 **1.**~~(a)~~ Tangible personal property, regardless of the method of delivery,  
8 made within this Commonwealth; and

9 **2.**~~(b)~~ Digital property regardless of whether:

10 **a.**~~1.~~ The purchaser has the right to permanently use the property;

11 **b.**~~2.~~ The purchaser's right to access or retain the property is not  
12 permanent; or

13 **c.**~~3.~~ The purchaser's right of use is conditioned upon continued  
14 payment; and

15 **(b)**~~(2)~~ The furnishing of the following:

16 **1.**~~(a)~~ The rental of any room or rooms, lodgings, campsites, or  
17 accommodations furnished by any hotel, motel, inn, tourist camp, tourist  
18 cabin, campgrounds, recreational vehicle parks, or any other place in  
19 which rooms, lodgings, campsites, or accommodations are regularly  
20 furnished to transients for a consideration. The tax shall not apply to  
21 rooms, lodgings, campsites, or accommodations supplied for a  
22 continuous period of thirty (30) days or more to a person;

23 **2.**~~(b)~~ Sewer services;

24 **3.**~~(c)~~ The sale of admissions, except:

25 **a.**~~1.~~ Admissions to racetracks taxed under KRS 138.480;

26 **b.**~~2.~~ Admissions to historical sites exempt under KRS 139.482;

27 **c.**~~3.~~ Admissions taxed under KRS 229.031;

- 1            ~~d.~~[4.] Admissions that are charged by nonprofit educational, charitable,
- 2    or religious institutions and for which an exemption is provided
- 3    under KRS 139.495; and
- 4            ~~e.~~[5.] Admissions that are charged by nonprofit civic, governmental, or
- 5    other nonprofit organizations and for which an exemption is
- 6    provided under KRS 139.498;
- 7            ~~4.~~[(d)] Prepaid calling service and prepaid wireless calling service;
- 8            ~~5.~~[(e)] Intrastate, interstate, and international communications services as
- 9    defined in KRS 139.195, except the furnishing of pay telephone service
- 10    as defined in KRS 139.195;
- 11            ~~6.~~[(f)] Distribution, transmission, or transportation services for natural
- 12    gas that is for storage, use, or other consumption in this state, excluding
- 13    those services furnished:
- 14    ~~a.~~[1.] For natural gas that is classified as residential use as provided in
- 15    KRS 139.470(7); or
- 16    ~~b.~~[2.] To a seller or reseller of natural gas;
- 17            ~~7.~~[(g)] Landscaping services, including but not limited to:
- 18    ~~a.~~[1.] Lawn care and maintenance services;
- 19    ~~b.~~[2.] Tree trimming, pruning, or removal services;
- 20    ~~c.~~[3.] Landscape design and installation services;
- 21    ~~d.~~[4.] Landscape care and maintenance services; and
- 22    ~~e.~~[5.] Snow plowing or removal services;
- 23            ~~8.~~[(h)] Janitorial services, including but not limited to residential and
- 24    commercial cleaning services, and carpet, upholstery, and window
- 25    cleaning services;
- 26            ~~9.~~[(i)] Small animal veterinary services, excluding veterinary services for
- 27    equine, cattle, poultry, swine, sheep, goats, llamas, alpacas, ratite birds,

1 buffalo, and cervids;

2 ~~10.[(j)]~~ Pet care services, including but not limited to grooming and  
3 boarding services, pet sitting services, and pet obedience training  
4 services;

5 ~~11.[(k)]~~ Industrial laundry services, including but not limited to industrial  
6 uniform supply services, protective apparel supply services, and  
7 industrial mat and rug supply services;

8 ~~12.[(l)]~~ Non-coin-operated laundry and dry cleaning services;

9 ~~13.[(m)]~~ Linen supply services, including but not limited to table and bed  
10 linen supply services and nonindustrial uniform supply services;

11 ~~14.[(n)]~~ Indoor skin tanning services, including but not limited to tanning  
12 booth or tanning bed services and spray tanning services;

13 ~~15.[(o)]~~ Non-medical diet and weight reducing services;

14 ~~16.[(p)]~~ Limousine services, if a driver is provided; and

15 ~~17.[(q)]~~ Extended warranty services.

16 **(2) (a) Prior to July 1, 2022, the rate shall be six percent (6%).**

17 **(b) Beginning July 1, 2022, but before July 1, 2023, the rate shall be five**  
18 **percent (5%).**

19 **(c) Beginning on or after July 1, 2023, the rate shall be six percent (6%).**

20 ➔Section 2. KRS 139.230 is amended to read as follows:

21 To eliminate fractions of one cent (\$0.01), and to ensure that the aggregate collections of  
22 taxes by a retailer, so far as may be practicable, shall be equal to **the rate provided under**  
23 **subsection (2) of Section 1 of this Act applied to the**~~[(six percent (6%) of)]~~ gross receipts  
24 or sales price, as the case may be, the tax shall be computed by applying the~~[(six percent~~  
25 ~~(6%)]~~ rate to the sales price carried to the third decimal place and rounded to the nearest  
26 cent by eliminating any fraction less than one-half of one cent (\$0.005) and increasing  
27 any fraction of one-half of one cent (\$0.005) or over to the next higher cent.

1           ➔Section 3. KRS 139.310 is amended to read as follows:

2       (1) An excise tax is hereby imposed on the storage, use, or other consumption in this  
3       state of tangible personal property, digital property, and extended warranty services  
4       purchased for storage, use, or other consumption in this state at the rate of:

5       (a) Six percent (6%) *prior to July 1, 2022;*

6       (b) *Five percent (5%) beginning July 1, 2022, but prior to July 1, 2023; and*

7       (c) *Six percent (6%) beginning on or after July 1, 2023;*

8       *applied to*~~of~~ the sales price.

9       (2) The excise tax applies to the purchase of digital property regardless of whether:

10       (a) The purchaser has the right to permanently use the goods;

11       (b) The purchaser's right to access or retain the digital property is not permanent;  
12       or

13       (c) The purchaser's right of use is conditioned upon continued payment.

14           ➔Section 4. KRS 139.260 is amended to read as follows:

15       For the purpose of the proper administration of this chapter and to prevent evasion of the  
16       duty to collect the taxes imposed by KRS 139.200 and 139.310, it shall be presumed that  
17       all gross receipts and all tangible personal property, digital property, and services sold by  
18       any person for delivery or access in this state are subject to the tax until the contrary is  
19       established. The burden of proving the contrary is upon the person who makes the sale of:

20       (1) Tangible personal property or digital property unless the person takes from the  
21       purchaser a certificate to the effect that the property is either:

22       (a) Purchased for resale according to the provisions of KRS 139.270;

23       (b) Purchased through a fully completed certificate of exemption or fully  
24       completed Streamlined Sales and Use Tax Agreement Certificate of  
25       Exemption in accordance with KRS 139.270; or

26       (c) Purchased according to administrative regulations promulgated by the  
27       department governing a direct pay authorization;

1 (2) A service included in KRS 139.200(~~1)(b)1. to 6.~~~~(2)(a) to (f)~~) unless the person  
 2 takes from the purchaser a certificate to the effect that the service is purchased  
 3 through a fully completed certificate of exemption or fully completed Streamlined  
 4 Sales and Use Tax Agreement Certificate of Exemption in accordance with KRS  
 5 139.270; and

6 (3) A service included in KRS 139.200(~~1)(b)7. to 17.~~~~(2)(g) to (q)~~) unless the person  
 7 takes from the purchaser a certificate to the effect that the service is:

8 (a) Purchased for resale according to KRS 139.270;

9 (b) Purchased through a fully completed certificate of exemption or fully  
 10 completed Streamlined Sales and Use Tax Agreement Certificate of  
 11 Exemption in accordance with KRS 139.270; or

12 (c) Purchased according to administrative regulations promulgated by the  
 13 department governing a direct pay authorization.

14 ➔Section 5. KRS 139.470 is amended to read as follows:

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

16 (1) Gross receipts from the sale of, and the storage, use, or other consumption in this  
 17 state of, tangible personal property or digital property which this state is prohibited  
 18 from taxing under the Constitution or laws of the United States, or under the  
 19 Constitution of this state;

20 (2) Gross receipts from sales of, and the storage, use, or other consumption in this state  
 21 of:

22 (a) Nonreturnable and returnable containers when sold without the contents to  
 23 persons who place the contents in the container and sell the contents together  
 24 with the container; and

25 (b) Returnable containers when sold with the contents in connection with a retail  
 26 sale of the contents or when resold for refilling;

27 As used in this section the term "returnable containers" means containers of a kind

1           customarily returned by the buyer of the contents for reuse. All other containers are  
2           "nonreturnable containers";

3       (3) Gross receipts from occasional sales of tangible personal property or digital  
4           property and the storage, use, or other consumption in this state of tangible personal  
5           property or digital property, the transfer of which to the purchaser is an occasional  
6           sale;

7       (4) Gross receipts from sales of tangible personal property to a common carrier,  
8           shipped by the retailer via the purchasing carrier under a bill of lading, whether the  
9           freight is paid in advance or the shipment is made freight charges collect, to a point  
10          outside this state and the property is actually transported to the out-of-state  
11          destination for use by the carrier in the conduct of its business as a common carrier;

12       (5) Gross receipts from sales of tangible personal property sold through coin-operated  
13          bulk vending machines, if the sale amounts to fifty cents (\$0.50) or less, if the  
14          retailer is primarily engaged in making the sales and maintains records satisfactory  
15          to the department. As used in this subsection, "bulk vending machine" means a  
16          vending machine containing unsorted merchandise which, upon insertion of a coin,  
17          dispenses the same in approximately equal portions, at random and without  
18          selection by the customer;

19       (6) Gross receipts from sales to any cabinet, department, bureau, commission, board, or  
20          other statutory or constitutional agency of the state and gross receipts from sales to  
21          counties, cities, or special districts as defined in KRS 65.005. This exemption shall  
22          apply only to purchases of tangible personal property, digital property, or services  
23          for use solely in the government function. A purchaser not qualifying as a  
24          governmental agency or unit shall not be entitled to the exemption even though the  
25          purchaser may be the recipient of public funds or grants;

26       (7) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky  
27          residents for use in heating, water heating, cooking, lighting, and other

1 residential uses. As used in this subsection, "fuel" shall include but not be  
2 limited to natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood.  
3 Determinations of eligibility for the exemption shall be made by the  
4 department;

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

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

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

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

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

1           representing the owner's or member's proprietary interest in a corporation  
2           owning a fee or a leasehold initially in excess of ninety-eight (98) years;

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

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

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

18           and which will be for sale.

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

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

27           a. Materials. This refers to the raw materials which become an



1 ingredient or component part of supplies or industrial tools exempt  
2 under subdivisions b. and c. below;

3 b. Supplies. This category includes supplies such as lubricating and  
4 compounding oils, grease, machine waste, abrasives, chemicals,  
5 solvents, fluxes, anodes, filtering materials, fire brick, catalysts,  
6 dyes, refrigerants, and explosives. The supplies indicated above  
7 need not come in direct contact with a manufactured product to be  
8 exempt. "Supplies" does not include repair, replacement, or spare  
9 parts of any kind; and

10 c. Industrial tools. This group is limited to hand tools such as jigs,  
11 dies, drills, cutters, rolls, reamers, chucks, saws, and spray guns  
12 and to tools attached to a machine such as molds, grinding balls,  
13 grinding wheels, dies, bits, and cutting blades. Normally, for  
14 industrial tools to be considered directly used in the manufacturing  
15 or industrial processing process, they shall come into direct contact  
16 with the product being manufactured or processed; and

17 3. Materials and supplies that are not reusable in the same manufacturing  
18 or industrial processing process at the completion of a single  
19 manufacturing or processing cycle. A single manufacturing cycle shall  
20 be considered to be the period elapsing from the time the raw materials  
21 enter into the manufacturing process until the finished product emerges  
22 at the end of the manufacturing process.

23 (c) The property described in paragraph (b) of this subsection shall be regarded as  
24 having been purchased for resale.

25 (d) For purposes of this subsection, a manufacturer or industrial processor  
26 includes an individual or business entity that performs only part of the  
27 manufacturing or industrial processing activity, and the person or business

1           entity need not take title to tangible personal property that is incorporated into,  
2           or becomes the product of, the activity.

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

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

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

16          (a) As used in this subsection:

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

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

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

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

26          (13) Gross receipts from the sale of metal retail fixtures manufactured in this state and  
27          purchased for storage, use, or other consumption outside this state and delivered by

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

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

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

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

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

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

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

1 processing process of:

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

7 that is not otherwise exempt under subsection (9) of this section or KRS  
8 139.480(10), if the charges for labor or services are separately stated on the invoice,  
9 bill of sale, or similar document given to purchaser;

10 (23) (a) For persons selling services included in KRS 139.200~~(1)(b)7. to 17.+(2)(g) to~~  
11 ~~(q)}~~ prior to January 1, 2019, gross receipts derived from the sale of those  
12 services if the gross receipts were less than six thousand dollars (\$6,000)  
13 during calendar year 2018. When gross receipts from these services exceed six  
14 thousand dollars (\$6,000) in a calendar year:

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

18 (b) The exemption provided in this subsection shall not apply to a person also  
19 engaged in the business of selling tangible personal property, digital property,  
20 or services included in KRS 139.200~~(1)(b)1. to 6.+(2)(a) to (f)}~~; and

21 (24) (a) For persons that first begin making sales of services included in KRS  
22 139.200~~(1)(b)7. to 17.+(2)(g) to (q)}~~ on or after January 1, 2019, gross receipts  
23 derived from the sale of those services if the gross receipts are less than six  
24 thousand dollars (\$6,000) within the first calendar year of operation. When  
25 gross receipts from these services exceed six thousand dollars (\$6,000) in a  
26 calendar year:

- 27 1. All gross receipts over six thousand dollars (\$6,000) are taxable in that

- 1                   calendar year; and
- 2                   2. All gross receipts are subject to tax in subsequent calendar years.
- 3           (b) The exemption provided in this subsection shall not apply to a person that is
- 4           also engaged in the business of selling tangible personal property, digital
- 5           property, or services included in KRS 139.200(~~1)(b)1. to 6.~~(2)(a) to (f)].