

1 AN ACT relating to revenue measures.

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

3 ➔Section 1. KRS 138.146 is amended to read as follows:

- 4 (1) The cigarette tax shall be due when any licensed wholesaler or unclassified acquirer
5 takes possession within this state of untax-paid cigarettes.
- 6 (2) (a) The cigarette tax shall be paid by the purchase of stamps by a resident
7 wholesaler within forty-eight (48) hours after the wholesaler receives the
8 cigarettes.
- 9 (b) A stamp shall be affixed to each package of an aggregate denomination not
10 less than the amount of the cigarette tax on the package.
- 11 (c) The affixed stamp shall be prima facie evidence of payment of the cigarette
12 tax.
- 13 (d) Unless stamps have been previously affixed, they shall be affixed by each
14 resident wholesaler prior to the delivery of any cigarettes to a retail location or
15 any person in this state.
- 16 (e) The evidence of cigarette tax payment shall be affixed to each individual
17 package of cigarettes by a nonresident wholesaler prior to the introduction or
18 importation of the cigarettes into the territorial limits of this state.
- 19 (f) The evidence of cigarette tax payment shall be affixed by an unclassified
20 acquirer within twenty-four (24) hours after the cigarettes are received by the
21 unclassified acquirer.
- 22 (3) (a) The department shall by regulation prescribe the form of cigarette tax
23 evidence, the method and manner of the sale and distribution of cigarette tax
24 evidence, and the method and manner that tax evidence shall be affixed to the
25 cigarettes.
- 26 (b) All cigarette tax evidence prescribed by the department shall be designed and
27 furnished in a fashion to permit identification of the person that affixed the

1 cigarette tax evidence to the particular package of cigarettes, by means of
2 numerical rolls or other mark on the cigarette tax evidence.

3 (c) The department shall maintain for at least three (3) years information
4 identifying the person that affixed the cigarette tax evidence to each package
5 of cigarettes. This information shall not be kept confidential or exempt from
6 disclosure to the public through open records.

7 (4) (a) Units of cigarette tax evidence shall be sold at their face value, but the
8 department shall allow as compensation to any licensed wholesaler an amount
9 of tax evidence equal to a proportionate rate of one and one-half~~[thirty]~~
10 cents (\$0.015) on each twenty (20) cigarettes~~[(\$0.30) face value for each~~
11 ~~three dollars (\$3) of tax evidence purchased at face value and attributable to~~
12 ~~the tax assessed in KRS 138.140(1)(a). No compensation shall be allowed for~~
13 ~~tax evidence purchased at face value attributable to the surtaxes imposed in~~
14 ~~KRS 138.140(1)(b) or (c)].~~

15 (b) The department shall have the power to withhold compensation as provided in
16 paragraph (a) of this subsection from any licensed wholesaler for failure to
17 abide by any provisions of KRS 138.130 to 138.205 or any administrative
18 regulations promulgated thereunder. Any refund or credit for unused cigarette
19 tax evidence shall be reduced by the amount allowed as compensation at the
20 time of purchase.

21 (5) (a) Payment for units of cigarette tax evidence shall be made at the time the units
22 are sold, unless the licensed wholesaler:

23 1. Has filed with the department a bond, issued by a corporation authorized
24 to do surety business in Kentucky, in an amount:

25 a. Determined by the department; or

26 b. i. Not less than the monthly average of payments by the
27 wholesaler for the units of cigarette tax evidence purchased

1 in the immediately preceding calendar year, which may be
2 delayed under paragraph (b) of this subsection; and

3 ii. No greater than ten million dollars (\$10,000,000); and

4 2. Has registered and agrees to make the payment of tax to the department
5 electronically.

6 At no time shall the licensed wholesaler be allowed to delay any payment for
7 units of cigarette tax evidence, including tax, penalty, interest, or collection
8 fees, which would exceed the amount of bond filed with the department.

9 (b) Except as provided in paragraph (c) of this subsection, if the licensed
10 wholesaler qualifies under paragraph (a) of this subsection, the licensed
11 wholesaler shall have ten (10) days from the date of purchase to remit
12 payment of cigarette tax, without the assessment of civil penalties under KRS
13 131.180 or interest under KRS 131.183 during the ten (10) day period.

14 (c) 1. The ten (10) day payment period under paragraph (b) of this subsection
15 shall not apply to the payment for units of cigarette tax evidence during
16 the last ten (10) days of the month of June during each fiscal year.

17 2. All payments for units of cigarette tax evidence made under paragraph
18 (b) of this subsection during the month of June shall be made the earlier
19 of:

20 a. The ten (10) day period; or

21 b. June 25.

22 (d) If the licensed wholesaler does not make the payment of cigarette tax within
23 the ten (10) day period, or within the period of time under paragraph (c) of
24 this subsection, the department shall:

25 1. Revoke the license required under KRS 138.195;

26 2. Issue a demand for payment in an amount equal to the cigarette tax
27 evidence purchased, plus all penalties, interest, and collection fees

- 1 applicable, up to the amount of the required bond; and
- 2 3. Require immediate payment of the bond.
- 3 (6) (a) The bond required under subsection (5) of this section shall be on a form and
4 with a surety approved by the department.
- 5 (b) The licensed wholesaler shall be named as the principal obligor and the
6 department shall be named as the obligee within the bond.
- 7 (c) The bond shall be conditioned upon the payment by the licensed wholesaler of
8 all cigarette tax imposed by the Commonwealth.
- 9 (d) The provisions of KRS 131.110 shall not apply to the demand for payment
10 required under subsection (5)(c)2. of this section.
- 11 (7) (a) No tax evidence may be affixed, or used in any way, by any person other than
12 the person purchasing the evidence from the department.
- 13 (b) Tax evidence may not be transferred or negotiated, and may not, by any
14 scheme or device, be given, bartered, sold, traded, or loaned to any other
15 person.
- 16 (c) Unaffixed tax evidence may be returned to the department for credit or refund
17 for any reason satisfactory to the department.
- 18 (8) (a) In the event any retailer receives into his possession cigarettes to which
19 evidence of Kentucky tax payment is not properly affixed, the retailer shall,
20 within twenty-four (24) hours, notify the department of the receipt.
- 21 (b) The notification to the department shall be in writing, stating the name of the
22 person from whom the cigarettes were received and the quantity of those
23 cigarettes.
- 24 (c) The written notice may be:
- 25 1. Given to any field agent of the department; or
- 26 2. Directed to the commissioner of the Department of Revenue, Frankfort,
27 Kentucky.

1 (d) If the notice is given by means of the United States mail, it shall be sent by
2 certified mail.

3 (e) Any such cigarettes shall be retained by the retailer, and not sold, for a period
4 of fifteen (15) days after giving the notice provided in this subsection.

5 (f) The retailer may, at his option, pay the tax due on those cigarettes according to
6 administrative regulations prescribed by the department, and proceed to sell
7 those cigarettes after the payment.

8 (9) (a) Cigarettes stamped with the cigarette tax evidence of another state shall at no
9 time be commingled with cigarettes on which the Kentucky cigarette tax
10 evidence has been affixed.

11 (b) Any licensed wholesaler, licensed sub-jobber, or licensed vending machine
12 operator may hold cigarettes stamped with the tax evidence of another state
13 for any period of time, subsection (2) of this section notwithstanding.

14 ➔Section 2. Section 1 of this Act applies to cigarette tax evidence sold on or after
15 August 1, 2022.

16 ➔Section 3. 2022 RS HB 8/VO is hereby amended as follows:

17 On page 2, line 18, after "2020-2021", insert "and fiscal year 2021-2022"; and

18 On page 2, line 19, after "met", insert "for each fiscal year"; and

19 On page 94, line 16, delete "2023", and insert in lieu thereof, "2024"; and

20 On page 94, line 25, delete "2022", and insert in lieu thereof, "2024"; and

21 On page 95, line 3, delete "2024", and insert in lieu thereof, "2025"; and

22 On page 136, remove all language on lines 19 to 24, and insert the following in lieu
23 thereof:

24 "Revenue Code in effect on December 31, 2021[2018], exclusive of any
25 amendments made subsequent to that date, other than amendments that extend
26 provisions in effect on December 31, 2021[2018], that would otherwise terminate;"

27 and

- 1 On page 207, line 15, delete "29 to 32,"; and
- 2 On page 207, between lines 16 and 17, insert the following:
- 3 "Section 68. Sections 29 to 32 of this Act take effect on January 1, 2024."; and
- 4 Renumber subsequent sections; and
- 5 On page 208, line 2, delete "32 to 38", and insert in lieu thereof, "33 to 39".