AN ACT relating to income taxation.

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

➔Section 1. KRS 141.020 is amended to read as follows:

(1) An annual tax shall be paid for each taxable year by every resident individual of this state upon his or her entire net income as defined in this chapter. The tax shall be determined by applying the rates in subsection (2) of this section to net income and subtracting allowable tax credits provided in subsection (3) of this section.

(2) (a) As used in this subsection:

1. "Balance in the BRTF at the end of a fiscal year" means the budget reserve trust fund account established in KRS 48.705 and includes the following amounts and actions resulting from the final close of the fiscal year:

a. The amount of moneys in the fund at the end of a fiscal year;

b. All close-out actions related to a budget reduction plan under KRS 48.130 or as modified in a branch budget bill; and

c. All close-out actions related to the surplus expenditure plan under KRS 48.140 or as modified in a branch budget bill;

2. "GF appropriations" means the authorization by the General Assembly to expend GF moneys, excluding:

a. Any appropriation to the budget reserve trust fund; and

b. Any lump-sum appropriation to a state-administered retirement system, as defined in KRS 7A.210, that is in excess of the appropriations specifically budgeted to meet the recurring statutorily required contributions or recurring actuarially determined contributions for a state-administered retirement system under KRS 21.525, 61.565, 61.702, 78.635, 78.5536, or 161.550, as applicable;

3. "GF moneys" means receipts deposited in the general fund defined in KRS 48.010, excluding tobacco moneys deposited in the fund established in KRS 248.654;
4. "IIT equivalent" means the amount of reduction in GF moneys resulting from a one (1) percentage point reduction to the individual income tax rate;
5. "Reduction conditions" means:
   a. The balance in the BRTF at the end of a fiscal year shall be equal to or greater than ten percent (10%) of the GF moneys for that fiscal year; and
   b. GF moneys at the end of a fiscal year shall be equal to or greater than GF appropriations for that fiscal year plus the IIT equivalent for that fiscal year; and
6. "Tax rate reduction" means the current tax rate minus five-tenths of one percent (0.5%).

(b) 1. Beginning no later than September 1, 2022, the department, with assistance from the Office of State Budget Director, shall review the reduction conditions as they apply to fiscal year 2020-2021 and fiscal year 2021-2022 and make a determination if the reduction conditions have been met for each fiscal year.
2. After reviewing the reduction conditions under subparagraph 1. of this paragraph, the department shall:
   a. No later than September 5, 2022, report to the Interim Joint Committee on Appropriations and Revenue:
      i. Whether a tax rate reduction will occur for the taxable year beginning on January 1, 2023; and
      ii. The amounts associated with each item within the reduction

conditions used for making that determination; and

b. i. Implement the tax rate reduction for the taxable year beginning on January 1, 2023, if the reduction conditions are met; or

ii. Maintain the current tax rate, if the reduction conditions are not met.

(c) 1. The department shall implement an annual process to review and report future reduction conditions at the same time and in the same manner as under paragraph (b) of this subsection, except that the department shall use the next succeeding year related to the dates for review and reporting and the next succeeding fiscal year data to evaluate the reduction conditions.

2. Notwithstanding subparagraph 1. of this paragraph, the department shall not implement an income tax rate reduction without a future action by the General Assembly.

(d) ***1.*** For taxable years beginning on or after January 1, 2018, but before January 1, 2023, the tax shall be five percent (5%) of net income.

2. For taxable years beginning on or after January 1, 2023, but before January 1, 2024, the tax shall be four and one-half percent (4.5%) of net income.

3. For taxable years beginning on or after January 1, 2024, the tax shall be four percent (4%) of net income.

(e) For taxable years beginning after December 31, 2004, and before January 1, 2018, the tax shall be determined by applying the following rates to net income:

1. Two percent (2%) of the amount of net income up to three thousand dollars ($3,000);

2. Three percent (3%) of the amount of net income over three thousand dollars ($3,000) and up to four thousand dollars ($4,000);
3. Four percent (4%) of the amount of net income over four thousand dollars ($4,000) and up to five thousand dollars ($5,000);
4. Five percent (5%) of the amount of net income over five thousand dollars ($5,000) and up to eight thousand dollars ($8,000);
5. Five and eight-tenths percent (5.8%) of the amount of net income over eight thousand dollars ($8,000) and up to seventy-five thousand dollars ($75,000); and
6. Six percent (6%) of the amount of net income over seventy-five thousand dollars ($75,000).

(3) (a) The following tax credits, when applicable, shall be deducted from the result obtained under subsection (2) of this section to arrive at the annual tax:

1. a. For taxable years beginning before January 1, 2014, twenty dollars ($20) for an unmarried individual; and

   b. For taxable years beginning on or after January 1, 2014, and before January 1, 2018, ten dollars ($10) for an unmarried individual;

2. a. For taxable years beginning before January 1, 2014, twenty dollars ($20) for a married individual filing a separate return and an additional twenty dollars ($20) for the spouse of taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, had no Kentucky gross income and is not the dependent of another taxpayer; or forty dollars ($40) for married persons filing a joint return, provided neither spouse is the dependent of another taxpayer. The determination of marital status for the purpose of

this section shall be made in the manner prescribed in Section 153 of the Internal Revenue Code; and

b. For taxable years beginning on or after January 1, 2014, and before January 1, 2018, ten dollars ($10) for a married individual filing a separate return and an additional ten dollars ($10) for the spouse of a taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, had no Kentucky gross income and is not the dependent of another taxpayer; or twenty dollars ($20) for married persons filing a joint return, provided neither spouse is the dependent of another taxpayer. The determination of marital status for the purpose of this section shall be made in the manner prescribed in Section 153 of the Internal Revenue Code;

3. a. For taxable years beginning before January 1, 2014, twenty dollars ($20) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his or her spouse; and

b. For taxable years beginning on or after January 1, 2014, and before January 1, 2018, ten dollars ($10) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his or her spouse;

4. An additional forty dollars ($40) credit if the taxpayer has attained the age of sixty-five (65) before the close of the taxable year;

5. An additional forty dollars ($40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse has attained the age of sixty-five (65) before the close of the taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of

another taxpayer;

6. An additional forty dollars ($40) credit if the taxpayer is blind at the close of the taxable year;

7. An additional forty dollars ($40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse is blind, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer; and

8. An additional twenty dollars ($20) credit shall be allowed if the taxpayer is a member of the Kentucky National Guard at the close of the taxable year.

(b) In the case of nonresidents, the tax credits allowable under this subsection shall be the portion of the credits that are represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.019 to the taxpayer's adjusted gross income as defined in Section 62 of the Internal Revenue Code. However, in the case of a married nonresident taxpayer with income from Kentucky sources, whose spouse has no income from Kentucky sources, the taxpayer shall determine allowable tax credit(s) by either:

1. The method contained above applied to the taxpayer's tax credit(s), excluding credits for a spouse and dependents; or

2. Prorating the taxpayer's tax credit(s) plus the tax credits for the taxpayer's spouse and dependents by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.019 to the total joint federal adjusted gross income of the taxpayer and the taxpayer's spouse.

(c) In the case of a part-year resident, the tax credits allowable under this subsection shall be the portion of the credits represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.019 to the taxpayer's adjusted gross income as defined in Section 62 of the Internal Revenue Code.

(4) An annual tax shall be paid for each taxable year as specified in this section upon the entire net income except as herein provided, from all tangible property located in this state, from all intangible property that has acquired a business situs in this state, and from business, trade, profession, occupation, or other activities carried on in this state, by natural persons not residents of this state. A nonresident individual shall be taxable only upon the amount of income received by the individual from labor performed, business done, or from other activities in this state, from tangible property located in this state, and from intangible property which has acquired a business situs in this state; provided, however, that the situs of intangible personal property shall be at the residence of the real or beneficial owner and not at the residence of a trustee having custody or possession thereof. For taxable years beginning on or after January 1, 2021, but before January 1, 2025, the tax imposed by this section shall not apply to a disaster response employee or to a disaster response business. The remainder of the income received by such nonresident shall be deemed nontaxable by this state.

(5) Subject to the provisions of KRS 141.081, any individual may elect to pay the annual tax imposed by KRS 141.023 in lieu of the tax levied under this section.

(6) A part-year resident is subject to taxation, as prescribed in subsection (1) of this section, during that portion of the taxable year that the individual is a resident and, as prescribed in subsection (4) of this section, during that portion of the taxable year when the individual is a nonresident.