

1 AN ACT relating to the taxation of currency and bullion.

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

3 ➔Section 1. KRS 139.480 is amended to read as follows:

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

- 7 (1) Locomotives or rolling stock, including materials for the construction, repair, or
8 modification thereof, or fuel or supplies for the direct operation of locomotives and
9 trains, used or to be used in interstate commerce;
- 10 (2) Coal for the manufacture of electricity;
- 11 (3) (a) All energy or energy-producing fuels used in the course of manufacturing,
12 processing, mining, or refining and any related distribution, transmission, and
13 transportation services for this energy that are billed to the user, to the extent
14 that the cost of the energy or energy-producing fuels used, and related
15 distribution, transmission, and transportation services for this energy that are
16 billed to the user exceed three percent (3%) of the cost of production.
- 17 (b) Cost of production shall be computed on the basis of a plant facility, which
18 shall include all operations within the continuous, unbroken, integrated
19 manufacturing or industrial processing process that ends with a product
20 packaged and ready for sale.
- 21 (c) A person who performs a manufacturing or industrial processing activity for a
22 fee and does not take ownership of the tangible personal property that is
23 incorporated into, or becomes the product of, the manufacturing or industrial
24 processing activity is a toller. For periods on or after July 1, 2018, the costs of
25 the tangible personal property shall be excluded from the toller's cost of
26 production at a plant facility with tolling operations in place as of July 1,
27 2018.

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

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

1 operation of farm machinery and which are necessary to the operation of the
2 machinery, and are customarily so used, including but not limited to combine
3 header wagons, combine header trailers, or any other implements specifically
4 designed and used to move or transport a combine head; and

5 (c) Does not include:

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

10 (12) Tombstones and other memorial grave markers;

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

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

24 (15) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively
25 and directly to:

26 (a) Operate farm machinery as defined in subsection (11) of this section;

27 (b) Operate on-farm grain or soybean drying facilities as defined in subsection

- 1 (13) of this section;
- 2 (c) Operate on-farm poultry or livestock facilities defined in subsection (14) of
3 this section;
- 4 (d) Operate on-farm ratite facilities defined in subsection (23) of this section;
- 5 (e) Operate on-farm llama or alpaca facilities as defined in subsection (25) of this
6 section; or
- 7 (f) Operate on-farm dairy facilities;
- 8 (16) Textbooks, including related workbooks and other course materials, purchased for
9 use in a course of study conducted by an institution which qualifies as a nonprofit
10 educational institution under KRS 139.495. The term "course materials" means only
11 those items specifically required of all students for a particular course but shall not
12 include notebooks, paper, pencils, calculators, tape recorders, or similar student
13 aids;
- 14 (17) Any property which has been certified as an alcohol production facility as defined
15 in KRS 247.910;
- 16 (18) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the
17 direct operation of aircraft in interstate commerce and used exclusively for the
18 conveyance of property or passengers for hire. Nominal intrastate use shall not
19 subject the property to the taxes imposed by this chapter;
- 20 (19) Any property which has been certified as a fluidized bed energy production facility
21 as defined in KRS 211.390;
- 22 (20) (a) 1. Any property to be incorporated into the construction, rebuilding,
23 modification, or expansion of a blast furnace or any of its components or
24 appurtenant equipment or structures as part of an approved supplemental
25 project, as defined by KRS 154.26-010; and
- 26 2. Materials, supplies, and repair or replacement parts purchased for use in
27 the operation and maintenance of a blast furnace and related carbon

1 steel-making operations as part of an approved supplemental project, as
2 defined by KRS 154.26-010.

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

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

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

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

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

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

19 (a) Feed and feed additives;

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

21 (c) On-farm facilities, including equipment, machinery, attachments, repair and
22 replacement parts, and any materials incorporated into the construction,
23 renovation, or repair of the facilities. The exemption shall apply to incubation
24 systems, egg processing equipment, waterer and feeding systems, brooding
25 systems, ventilation systems, alarm systems, and curtain systems. In addition,
26 the exemption shall apply whether or not the seller is under contract to
27 deliver, assemble, and incorporate into real estate the equipment, machinery,

- 1 attachments, repair and replacement parts, and any materials incorporated into
2 the construction, renovation, or repair of the facilities;
- 3 (24) Embryos and semen that are used in the reproduction of livestock, if the products of
4 these embryos and semen ordinarily constitute food for human consumption, and if
5 the sale is made to a person engaged in the business of farming;
- 6 (25) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for
7 the breeding and production of hides, breeding stock, fiber and wool products,
8 meat, and llama and alpaca by-products, and the following items used in this
9 pursuit:
- 10 (a) Feed and feed additives;
- 11 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
- 12 and
- 13 (c) On-farm facilities, including equipment, machinery, attachments, repair and
14 replacement parts, and any materials incorporated into the construction,
15 renovation, or repair of the facilities. The exemption shall apply to waterer
16 and feeding systems, ventilation systems, and alarm systems. In addition, the
17 exemption shall apply whether or not the seller is under contract to deliver,
18 assemble, and incorporate into real estate the equipment, machinery,
19 attachments, repair and replacement parts, and any materials incorporated into
20 the construction, renovation, or repair of the facilities;
- 21 (26) Baling twine and baling wire for the baling of hay and straw;
- 22 (27) Water sold to a person regularly engaged in the business of farming and used in the:
- 23 (a) Production of crops;
- 24 (b) Production of milk for sale; or
- 25 (c) Raising and feeding of:
- 26 1. Livestock or poultry, the products of which ordinarily constitute food
27 for human consumption; or

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

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

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

10 (a) Feed and feed additives;

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

12 (c) On-site facilities, including equipment, machinery, attachments, repair and
13 replacement parts, and any materials incorporated into the construction,
14 renovation, or repair of the facilities. In addition, the exemption shall apply
15 whether or not the seller is under contract to deliver, assemble, and
16 incorporate into real estate the equipment, machinery, attachments, repair and
17 replacement parts, and any materials incorporated into the construction,
18 renovation, or repair of the facilities;

19 (31) (a) Repair or replacement parts for the direct operation or maintenance of a motor
20 vehicle, including any towed unit, used exclusively in interstate commerce for
21 the conveyance of property or passengers for hire, provided the motor vehicle
22 is licensed for use on the highway and its declared gross vehicle weight with
23 any towed unit is forty-four thousand and one (44,001) pounds or greater.
24 Nominal intrastate use shall not subject the property to the taxes imposed by
25 this chapter;

26 (b) Repair or replacement parts for the direct operation and maintenance of a
27 motor vehicle operating under a charter bus certificate issued by the

1 Transportation Cabinet under KRS Chapter 281, or under similar authority
2 granted by the United States Department of Transportation; and

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

11 (32) Food donated by a retail food establishment or any other entity regulated under
12 KRS 217.127 to a nonprofit organization for distribution to the needy; ~~and~~

13 (33) Drugs and over-the counter drugs, as defined in KRS 139.472, that are purchased
14 by a person regularly engaged in the business of farming and used in the treatment
15 of cattle, sheep, goats, swine, poultry, ratite birds, llamas, alpacas, buffalo, aquatic
16 organisms, or cervids; and

17 **(34) (a) Currency or bullion.**

18 **(b) As used in this subsection:**

19 **1. "Bullion":**

20 **a. Means bars, ingots, or coins, which are:**

21 **i. Made of gold, silver, platinum, palladium, or a**
22 **combination of these metals;**

23 **ii. Valued based on the content of the metal and not its form;**
24 **and**

25 **iii. Used, or have been used, as a medium of exchange,**
26 **security, or commodity by any state, the United States**
27 **government, or a foreign nation; and**

1 *b. Does not include medallions or coins that are incorporated into a*
2 *pendant or other jewelry; and*

3 *2. "Currency":*

4 *a. Means a coin or currency made of gold, silver, platinum,*
5 *palladium, or other metal or paper money that is or has been*
6 *used as legal tender and is sold based on its value as a collectible*
7 *item rather than the value as a medium of exchange; and*

8 *b. Does not include a coin or currency that has been incorporated*
9 *into jewelry.*

10 ➔Section 2. This Act takes effect July 1, 2023.