

1 AN ACT relating to property tax on distilled spirits.

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

3 ➔Section 1. KRS 132.140 is amended to read as follows:

- 4 (1) The department~~[of Revenue]~~ shall fix the value of the distilled spirits for the
5 purpose of taxation, assess the same at its fair cash value, estimated at the price it
6 would bring at a fair voluntary sale, **calculate the exempt portion of the property**
7 **taxes**, and keep a record of ~~the~~^{its} valuations and assessments. The department
8 shall immediately notify the owner or proprietor of the bonded warehouse or
9 premises of the amount fixed, **including the portion of the property tax exemption**
10 **as calculated in subsection (2) of this section.**
- 11 (2) **There shall be exempt from state and local ad valorem taxes a portion or all of**
12 **the property taxes assessed on distilled spirits stored or aging in barrels located in**
13 **a bonded warehouse or premises, excluding neutral spirits, according to the**
14 **following schedule for distilled spirits assessed on:**
- 15 **(a) January 1, 2026, three percent (3%) of the tax;**
- 16 **(b) January 1, 2027, six percent (6%) of the tax;**
- 17 **(c) January 1, 2028, nine percent (9%) of the tax;**
- 18 **(d) January 1, 2029, thirteen percent (13%) of the tax;**
- 19 **(e) January 1, 2030, seventeen percent (17%) of the tax;**
- 20 **(f) January 1, 2031, twenty-one percent (21%) of the tax;**
- 21 **(g) January 1, 2032, twenty-six percent (26%) of the tax;**
- 22 **(h) January 1, 2033, thirty-two percent (32%) of the tax;**
- 23 **(i) January 1, 2034, thirty-eight percent (38%) of the tax;**
- 24 **(j) January 1, 2035, forty-four percent (44%) of the tax;**
- 25 **(k) January 1, 2036, fifty percent (50%) of the tax;**
- 26 **(l) January 1, 2037, sixty-five percent (65%) of the tax;**
- 27 **(m) January 1, 2038, eighty percent (80%) of the tax; and**

1 (n) January 1, 2039, and thereafter one hundred percent (100%) of the tax.

2 **(3)** If any owner, proprietor, or custodian of a bonded warehouse or premises fails to
3 make the report required by KRS 132.130, the department shall ascertain the
4 necessary facts required to be reported. For that purpose the department shall have
5 access to the records of the owner, proprietor, or custodian; and the assessment
6 shall be made and taxes collected thereon, with interest and penalties, as though
7 regularly reported.

8 ~~(4)(3)~~ The assessment made under (1) of this section shall be reviewed according to
9 KRS 131.110.

10 ➔Section 2. KRS 141.389 is amended to read as follows:

11 (1) **This tax credit applies to taxable years beginning prior to January 1, 2024.**

12 **(2)** (a) There shall be allowed a nonrefundable and nontransferable credit to each
13 taxpayer paying the distilled spirits ad valorem tax as follows:

14 1. For taxable years beginning on or after January 1, 2015, and before
15 December 31, 2015, the credit shall be equal to twenty percent (20%) of
16 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a
17 timely basis;

18 2. For taxable years beginning on or after January 1, 2016, and before
19 December 31, 2016, the credit shall be equal to forty percent (40%) of
20 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a
21 timely basis;

22 3. For taxable years beginning on or after January 1, 2017, and before
23 December 31, 2017, the credit shall be equal to sixty percent (60%) of
24 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a
25 timely basis;

26 4. For taxable years beginning on or after January 1, 2018, and before
27 December 31, 2018, the credit shall be equal to eighty percent (80%) of

1 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a
2 timely basis; and

3 5. For taxable years beginning on or after January 1, 2019, **but prior to**
4 **January 1, 2024**, the credit shall be equal to one hundred percent
5 (100%) of the tax assessed under KRS 132.160 and paid under KRS
6 132.180 on a timely basis.

7 (b) The credit shall be applied both to the income tax imposed under KRS
8 141.020 or 141.040 and to the limited liability entity tax imposed under KRS
9 141.0401, with the ordering of the credits as provided in KRS 141.0205.

10 ~~(3)~~~~(2)~~ The amount of distilled spirits credit allowed under subsection ~~(2)~~~~(1)~~ of this
11 section shall be used only for capital improvements at the premises of the distiller
12 licensed pursuant to KRS Chapter 243. As used in this subsection, "capital
13 improvement" means any costs associated with:

- 14 (a) Construction, replacement, or remodeling of warehouses or facilities;
15 (b) Purchases of barrels and pallets used for the storage and aging of distilled
16 spirits in maturing warehouses;
17 (c) Acquisition, construction, or installation of equipment for the use in the
18 manufacture, bottling, or shipment of distilled spirits;
19 (d) Addition or replacement of access roads or parking facilities; and
20 (e) Construction, replacement, or remodeling of facilities to market or promote
21 tourism, including but not limited to a visitor's center.

22 ~~(4)~~~~(3)~~ The distilled spirits credit allowed under subsection ~~(2)~~~~(1)~~ of this section:

- 23 (a) May be accumulated for multiple taxable years **and the accumulated credit**
24 **may be claimed on a return of the taxpayer filed for taxable years beginning**
25 **on or after January 1, 2024; and**
26 (b) ~~Shall be claimed on the return of the taxpayer filed for the taxable year during~~
27 ~~which the credits were used pursuant to subsection (2) of this section; and~~

1 ~~(e)~~ Shall not include:

- 2 1. Any delinquent tax paid to the Commonwealth; or
3 2. Any interest, fees, or penalty paid to the Commonwealth.

4 ~~(5)~~~~(4)~~ (a) Before the distilled spirits credit shall be allowed on any return, the
5 capital improvements required by subsection ~~(3)~~~~(2)~~ of this section shall be
6 completed and specifically associated with the credit allowed on the return.

7 (b) The amount of distilled spirits credit allowed shall be recaptured if the capital
8 improvement associated with the credit is sold or otherwise disposed of prior
9 to the exhaustion of the useful life of the asset for Kentucky depreciation
10 purposes.

11 (c) If the allowed credit is associated with multiple capital improvements, and not
12 all capital improvements are sold or otherwise disposed of, the distilled spirits
13 credit shall be prorated based on the cost of the capital improvement sold over
14 the total cost of all improvements associated with the credit.

15 ~~(6)~~~~(5)~~ If the taxpayer is a pass-through entity, the taxpayer may apply the credit
16 against the limited liability entity tax imposed by KRS 141.0401, and shall pass the
17 credit through to its members, partners, or shareholders in the same proportion as
18 the distributive share of income or loss is passed through.

19 ~~(7)~~~~(6)~~ The department may promulgate an administrative regulation pursuant to
20 KRS Chapter 13A to implement the allowable credit under this section, require the
21 filing of forms designed by the department, and require specific information for the
22 evaluation of the credit taken by any taxpayer.

23 ~~(8)~~~~(7)~~ No later than September 1, 2016, and annually thereafter, the department shall
24 report to the Interim Joint Committee on Appropriations and Revenue:

25 (a) The name of each taxpayer taking the credit permitted by subsection ~~(2)~~~~(1)~~
26 of this section;

27 (b) The amount of credit taken by that taxpayer; and

1 (c) The type of capital improvement made for which the credit is claimed.

2 ➔Section 3. Any settlement agreement between the Department of Revenue and
3 any taxpayer having distilled spirits in a bonded warehouse, which is related to the
4 ongoing assessment or collection of tax under Section 1 of this Act, shall not be
5 considered null and void based upon the statutory changes in this Act but may be
6 renegotiated by the parties to the settlement agreement and the renegotiated agreement
7 shall be promulgated in an administrative regulation following the renegotiation process.