

1 AN ACT relating to taxation of veterans' wages.

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

3 ➔Section 1. KRS 141.010 is amended to read as follows:

4 As used in this chapter, for taxable years beginning on or after January 1, 2018:

5 (1) "Adjusted gross income," in the case of taxpayers other than corporations, means
6 the amount calculated in KRS 141.019;

7 (2) "Captive real estate investment trust" means a real estate investment trust as defined
8 in Section 856 of the Internal Revenue Code that meets the following requirements:

9 (a) 1. The shares or other ownership interests of the real estate investment
10 trust are not regularly traded on an established securities market; or

11 2. The real estate investment trust does not have enough shareholders or
12 owners to be required to register with the Securities and Exchange
13 Commission;

14 (b) 1. The maximum amount of stock or other ownership interest that is owned
15 or constructively owned by a corporation equals or exceeds:

16 a. Twenty-five percent (25%), if the corporation does not occupy
17 property owned, constructively owned, or controlled by the real
18 estate investment trust; or

19 b. Ten percent (10%), if the corporation occupies property owned,
20 constructively owned, or controlled by the real estate investment
21 trust.

22 The total ownership interest of a corporation shall be determined by
23 aggregating all interests owned or constructively owned by a
24 corporation; and

25 2. For the purposes of this paragraph:

26 a. "Corporation" means a corporation taxable under KRS 141.040,
27 and includes an affiliated group as defined in KRS 141.200, that is

1 required to file a consolidated return pursuant to KRS 141.200;
2 and

3 b. "Owned or constructively owned" means owning shares or having
4 an ownership interest in the real estate investment trust, or owning
5 an interest in an entity that owns shares or has an ownership
6 interest in the real estate investment trust. Constructive ownership
7 shall be determined by looking across multiple layers of a
8 multilayer pass-through structure; and

9 (c) The real estate investment trust is not owned by another real estate investment
10 trust;

11 (3) "Commissioner" means the commissioner of the department;

12 (4) "Corporation" has the same meaning as in Section 7701(a)(3) of the Internal
13 Revenue Code;

14 (5) "Critical infrastructure" means property and equipment owned or used by
15 communications networks, electric generation, transmission or distribution systems,
16 gas distribution systems, or water or wastewater pipelines that service multiple
17 customers or citizens, including but not limited to real and personal property such
18 as buildings, offices, lines, poles, pipes, structures, or equipment;

19 (6) "Declared state disaster or emergency" means a disaster or emergency event for
20 which:

21 (a) The Governor has declared a state of emergency pursuant to KRS 39A.100; or

22 (b) A presidential declaration of a federal major disaster or emergency has been
23 issued;

24 (7) "Department" means the Department of Revenue;

25 (8) "Dependent" means those persons defined as dependents in the Internal Revenue
26 Code;

27 (9) "Disaster or emergency-related work" means repairing, renovating, installing,

- 1 building, or rendering services that are essential to the restoration of critical
2 infrastructure that has been damaged, impaired, or destroyed by a declared state
3 disaster or emergency;
- 4 (10) "Disaster response business" means any entity:
- 5 (a) That has no presence in the state and conducts no business in the state, except
6 for disaster or emergency-related work during a disaster response period;
- 7 (b) Whose services are requested by a registered business or by a state or local
8 government for purposes of performing disaster or emergency-related work in
9 the state during a disaster response period; and
- 10 (c) That has no registrations, tax filings, or nexus in this state other than disaster
11 or emergency-related work during the calendar year immediately preceding
12 the declared state disaster or emergency;
- 13 (11) "Disaster response employee" means an employee who does not work or reside in
14 the state, except for disaster or emergency-related work during the disaster response
15 period;
- 16 (12) "Disaster response period" means a period that begins ten (10) days prior to the first
17 day of the Governor's declaration under KRS 39A.100, or the President's
18 declaration of a federal major disaster or emergency, whichever occurs first, and
19 that extends thirty (30) calendar days after the declared state disaster or emergency;
- 20 (13) "Doing business in this state" includes but is not limited to:
- 21 (a) Being organized under the laws of this state;
- 22 (b) Having a commercial domicile in this state;
- 23 (c) Owning or leasing property in this state;
- 24 (d) Having one (1) or more individuals performing services in this state;
- 25 (e) Maintaining an interest in a pass-through entity doing business in this state;
- 26 (f) Deriving income from or attributable to sources within this state, including
27 deriving income directly or indirectly from a trust doing business in this state,

1 or deriving income directly or indirectly from a single-member limited
2 liability company that is doing business in this state and is disregarded as an
3 entity separate from its single member for federal income tax purposes; or

4 (g) Directing activities at Kentucky customers for the purpose of selling them
5 goods or services.

6 Nothing in this subsection shall be interpreted in a manner that goes beyond the
7 limitations imposed and protections provided by the United States Constitution or
8 Pub. L. No. 86-272;

9 (14) "Employee" has the same meaning as in Section 3401(c) of the Internal Revenue
10 Code;

11 (15) "Employer" has the same meaning as in Section 3401(d) of the Internal Revenue
12 Code;

13 (16) "Fiduciary" has the same meaning as in Section 7701(a)(6) of the Internal Revenue
14 Code;

15 (17) "Financial institution" means:

16 (a) A national bank organized as a body corporate and existing or in the process
17 of organizing as a national bank association pursuant to the provisions of the
18 National Bank Act, 12 U.S.C. secs. 21 et seq., in effect on December 31,
19 1997, exclusive of any amendments made subsequent to that date;

20 (b) Any bank or trust company incorporated or organized under the laws of any
21 state, except a banker's bank organized under KRS 286.3-135;

22 (c) Any corporation organized under the provisions of 12 U.S.C. secs. 611 to 631,
23 in effect on December 31, 1997, exclusive of any amendments made
24 subsequent to that date, or any corporation organized after December 31,
25 1997, that meets the requirements of 12 U.S.C. secs. 611 to 631, in effect on
26 December 31, 1997; or

27 (d) Any agency or branch of a foreign depository as defined in 12 U.S.C. sec.

1 3101, in effect on December 31, 1997, exclusive of any amendments made
2 subsequent to that date, or any agency or branch of a foreign depository
3 established after December 31, 1997, that meets the requirements of 12 U.S.C.
4 sec. 3101 in effect on December 31, 1997;

5 (18) "Fiscal year" has the same meaning as in Section 7701(a)(24) of the Internal
6 Revenue Code;

7 (19) "Gross income":

8 (a) In the case of taxpayers other than corporations, has the same meaning as in
9 Section 61 of the Internal Revenue Code; and

10 (b) In the case of corporations, means the amount calculated in KRS 141.039;

11 (20) "Individual" means a natural person;

12 (21) "Internal Revenue Code" means for taxable years beginning on or after January 1,
13 2023, the Internal Revenue Code in effect on December 31, 2022, exclusive of any
14 amendments made subsequent to that date, other than amendments that extend
15 provisions in effect on December 31, 2022, that would otherwise terminate;

16 (22) "Limited liability pass-through entity" means any pass-through entity that affords
17 any of its partners, members, shareholders, or owners, through function of the laws
18 of this state or laws recognized by this state, protection from general liability for
19 actions of the entity;

20 (23) "Modified gross income" means the greater of:

21 (a) Adjusted gross income as defined in 26 U.S.C. sec. 62, including any
22 amendments in effect on December 31 of the taxable year, and adjusted as
23 follows:

24 1. Include interest income derived from obligations of sister states and
25 political subdivisions thereof; and

26 2. Include lump-sum pension distributions taxed under the special
27 transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or

- 1 (b) Adjusted gross income as defined in subsection (1) of this section and
2 adjusted to include lump-sum pension distributions taxed under the special
3 transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);
- 4 (24) "Net income":
- 5 (a) In the case of taxpayers other than corporations, means the amount calculated
6 in KRS 141.019; and
- 7 (b) In the case of corporations, means the amount calculated in KRS 141.039;
- 8 (25) "Nonresident" means any individual not a resident of this state;
- 9 (26) "Number of withholding exemptions claimed" means the number of withholding
10 exemptions claimed in a withholding exemption certificate in effect under KRS
11 141.325, except that if no such certificate is in effect, the number of withholding
12 exemptions claimed shall be considered to be zero;
- 13 (27) "Part-year resident" means any individual that has established or abandoned
14 Kentucky residency during the calendar year;
- 15 (28) "Pass-through entity" means any partnership, S corporation, limited liability
16 company, limited liability partnership, limited partnership, or similar entity
17 recognized by the laws of this state that is not taxed for federal purposes at the
18 entity level, but instead passes to each partner, member, shareholder, or owner their
19 proportionate share of income, deductions, gains, losses, credits, and any other
20 similar attributes;
- 21 (29) "Payroll period" has the same meaning as in Section 3401(b) of the Internal
22 Revenue Code;
- 23 (30) "Person" has the same meaning as in Section 7701(a)(1) of the Internal Revenue
24 Code;
- 25 (31) "Registered business" means a business entity that owns or otherwise possesses
26 critical infrastructure and that is registered to do business in the state prior to the
27 declared state disaster or emergency;

- 1 (32) "Resident" means an individual domiciled within this state or an individual who is
2 not domiciled in this state, but maintains a place of abode in this state and spends in
3 the aggregate more than one hundred eighty-three (183) days of the taxable year in
4 this state;
- 5 (33) "S corporation" has the same meaning as in Section 1361(a) of the Internal Revenue
6 Code;
- 7 (34) "State" means a state of the United States, the District of Columbia, the
8 Commonwealth of Puerto Rico, or any territory or possession of the United States;
- 9 (35) "Taxable net income":
- 10 (a) In the case of corporations that are taxable in this state, means "net income" as
11 defined in subsection (24) of this section;
- 12 (b) In the case of corporations that are taxable in this state and taxable in another
13 state, means "net income" as defined in subsection (24) of this section and as
14 allocated and apportioned under KRS 141.120;
- 15 (c) For homeowners' associations as defined in Section 528(c) of the Internal
16 Revenue Code, means "taxable income" as defined in Section 528(d) of the
17 Internal Revenue Code. Notwithstanding the provisions of subsection (21) of
18 this section, the Internal Revenue Code sections referred to in this paragraph
19 shall be those code sections in effect for the applicable tax year; and
- 20 (d) For a corporation that meets the requirements established under Section 856
21 of the Internal Revenue Code to be a real estate investment trust, means "real
22 estate investment trust taxable income" as defined in Section 857(b)(2) of the
23 Internal Revenue Code, except that a captive real estate investment trust shall
24 not be allowed any deduction for dividends paid;
- 25 (36) "Taxable year" means the calendar year or fiscal year ending during such calendar
26 year, upon the basis of which net income is computed, and in the case of a return
27 made for a fractional part of a year under the provisions of this chapter or under

1 administrative regulations prescribed by the commissioner, "taxable year" means
2 the period for which the return is made; ~~and~~

3 (37) **"Veteran" means a person who served in the Armed Forces, as defined in KRS**
4 **141.175, and was discharged or released therefrom under conditions other than**
5 **dishonorable; and**

6 **(38)** "Wages" has the same meaning as in Section 3401(a) of the Internal Revenue Code
7 and includes other income subject to withholding as provided in Section 3401(f)
8 and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code.

9 ➔Section 2. KRS 141.019 is amended to read as follows:

10 In the case of taxpayers other than corporations:

11 (1) Adjusted gross income shall be calculated by subtracting from the gross income of
12 those taxpayers the deductions allowed individuals by Section 62 of the Internal
13 Revenue Code and adjusting as follows:

14 (a) Exclude income that is exempt from state taxation by the Kentucky
15 Constitution and the Constitution and statutory laws of the United States;

16 (b) Exclude income from supplemental annuities provided by the Railroad
17 Retirement Act of 1937 as amended and which are subject to federal income
18 tax by Pub. L. No. 89-699;

19 (c) Include interest income derived from obligations of sister states and political
20 subdivisions thereof;

21 (d) Exclude employee pension contributions picked up as provided for in KRS
22 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610,
23 and 161.540 upon a ruling by the Internal Revenue Service or the federal
24 courts that these contributions shall not be included as gross income until such
25 time as the contributions are distributed or made available to the employee;

26 (e) Exclude Social Security and railroad retirement benefits subject to federal
27 income tax;

- 1 (f) Exclude any money received because of a settlement or judgment in a lawsuit
2 brought against a manufacturer or distributor of "Agent Orange" for damages
3 resulting from exposure to Agent Orange by a member or veteran of the
4 Armed Forces of the United States or any dependent of such person who
5 served in Vietnam;
- 6 (g) 1. a. For taxable years beginning after December 31, 2005, but before
7 January 1, 2018, exclude up to forty-one thousand one hundred ten
8 dollars (\$41,110) of total distributions from pension plans, annuity
9 contracts, profit-sharing plans, retirement plans, or employee
10 savings plans; and
- 11 b. For taxable years beginning on or after January 1, 2018, exclude
12 up to thirty-one thousand one hundred ten dollars (\$31,110) of
13 total distributions from pension plans, annuity contracts, profit-
14 sharing plans, retirement plans, or employee savings plans.
- 15 2. As used in this paragraph:
- 16 a. "Annuity contract" has the same meaning as set forth in Section
17 1035 of the Internal Revenue Code;
- 18 b. "Distributions" includes but is not limited to any lump-sum
19 distribution from pension or profit-sharing plans qualifying for the
20 income tax averaging provisions of Section 402 of the Internal
21 Revenue Code; any distribution from an individual retirement
22 account as defined in Section 408 of the Internal Revenue Code;
23 and any disability pension distribution; and
- 24 c. "Pension plans, profit-sharing plans, retirement plans, or employee
25 savings plans" means any trust or other entity created or organized
26 under a written retirement plan and forming part of a stock bonus,
27 pension, or profit-sharing plan of a public or private employer for

- 1 the exclusive benefit of employees or their beneficiaries and
2 includes plans qualified or unqualified under Section 401 of the
3 Internal Revenue Code and individual retirement accounts as
4 defined in Section 408 of the Internal Revenue Code;
- 5 (h) 1. a. Exclude the portion of the distributive share of a shareholder's net
6 income from an S corporation subject to the franchise tax imposed
7 under KRS 136.505 or the capital stock tax imposed under KRS
8 136.300; and
- 9 b. Exclude the portion of the distributive share of a shareholder's net
10 income from an S corporation related to a qualified subchapter S
11 subsidiary subject to the franchise tax imposed under KRS
12 136.505 or the capital stock tax imposed under KRS 136.300.
- 13 2. The shareholder's basis of stock held in an S corporation where the S
14 corporation or its qualified subchapter S subsidiary is subject to the
15 franchise tax imposed under KRS 136.505 or the capital stock tax
16 imposed under KRS 136.300 shall be the same as the basis for federal
17 income tax purposes;
- 18 (i) Exclude income received for services performed as a precinct worker for
19 election training or for working at election booths in state, county, and local
20 primaries or regular or special elections;
- 21 (j) Exclude any capital gains income attributable to property taken by eminent
22 domain;
- 23 (k) 1. Exclude all income from all sources for members of the Armed Forces
24 who are on active duty and who are killed in the line of duty, for the
25 year during which the death occurred and the year prior to the year
26 during which the death occurred.
- 27 2. For the purposes of this paragraph, "all income from all sources" shall

- 1 include all federal and state death benefits payable to the estate or any
2 beneficiaries;
- 3 (l) Exclude all military pay received by members of the Armed Forces while on
4 active duty;
- 5 (m) 1. Include the amount deducted for depreciation under 26 U.S.C. sec. 167
6 or 168; and
7 2. Exclude the amounts allowed by KRS 141.0101 for depreciation;
- 8 (n) Include the amount deducted under 26 U.S.C. sec. 199A;
- 9 (o) Ignore any change in the cost basis of the surviving spouse's share of property
10 owned by a Kentucky community property trust occurring for federal income
11 tax purposes as a result of the death of the predeceasing spouse;
- 12 (p) Allow the same treatment allowed under Pub. L. No. 116-260, secs. 276 and
13 278, related to the tax treatment of forgiven covered loans, deductions
14 attributable to those loans, and tax attributes associated with those loans for
15 taxable years ending on or after March 27, 2020, but before January 1, 2022;
16 ~~and~~
- 17 (q) For taxable years beginning on or after January 1, 2020, but before March 11,
18 2023, allow the same treatment of restaurant revitalization grants in
19 accordance with Pub. L. No. 117-2, sec. 9673 and 15 U.S.C. sec. 9009c,
20 related to the tax treatment of the grants, deductions attributable to those
21 grants, and tax attributes associated with those grants; and
- 22 **(r) For taxable years beginning on or after January 1, 2025, but before**
23 **January 1, 2029, exclude wages earned in this state by a resident veteran;**
24 **and**
- 25 (2) Net income shall be calculated by subtracting from adjusted gross income all the
26 deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as
27 modified by KRS 141.0101, except:

- 1 (a) Any deduction allowed by 26 U.S.C. sec. 164 for taxes;
- 2 (b) Any deduction allowed by 26 U.S.C. sec. 165 for losses, except wagering
3 losses allowed under Section 165(d) of the Internal Revenue Code;
- 4 (c) Any deduction allowed by 26 U.S.C. sec. 213 for medical care expenses;
- 5 (d) Any deduction allowed by 26 U.S.C. sec. 217 for moving expenses;
- 6 (e) Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous
7 deduction;
- 8 (f) Any deduction allowed by the Internal Revenue Code for amounts allowable
9 under KRS 140.090(1)(h) in calculating the value of the distributive shares of
10 the estate of a decedent, unless there is filed with the income return a
11 statement that the deduction has not been claimed under KRS 140.090(1)(h);
- 12 (g) Any deduction allowed by 26 U.S.C. sec. 151 for personal exemptions and
13 any other deductions in lieu thereof;
- 14 (h) Any deduction allowed for amounts paid to any club, organization, or
15 establishment which has been determined by the courts or an agency
16 established by the General Assembly and charged with enforcing the civil
17 rights laws of the Commonwealth, not to afford full and equal membership
18 and full and equal enjoyment of its goods, services, facilities, privileges,
19 advantages, or accommodations to any person because of race, color, religion,
20 national origin, or sex, except nothing shall be construed to deny a deduction
21 for amounts paid to any religious or denominational club, group, or
22 establishment or any organization operated solely for charitable or educational
23 purposes which restricts membership to persons of the same religion or
24 denomination in order to promote the religious principles for which it is
25 established and maintained; and
- 26 (i) A taxpayer may elect to claim the standard deduction allowed by KRS
27 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63

1 and as modified by this section.