

1 AN ACT relating to blockchain digital assets.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 369 IS CREATED TO
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 3 of this Act:*

6 *(1) "Blockchain" means data that is:*

7 *(a) Shared across a network to create a ledger of verified transactions or*
8 *information among linked network participants using cryptography to:*

9 *1. Maintain the integrity of the ledger; or*

10 *2. Execute other functions; and*

11 *(b) Distributed in a concurrent, automated update to network participants on*
12 *the state of the ledger;*

13 *(2) "Blockchain network" means a technical infrastructure that provides ledger and*
14 *smart contract services to applications;*

15 *(3) "Blockchain protocol" means any executable software deployed to a blockchain*
16 *composed of a source code that is publicly available and accessible, including a*
17 *smart contract or any network of smart contracts;*

18 *(4) "Cryptocurrency" has the same meaning as in KRS 139.516;*

19 *(5) "Cryptography" means the practice of coding information to ensure only the*
20 *person that a message was written for can read and process that information;*

21 *(6) "Digital asset" means:*

22 *(a) Virtual currency;*

23 *(b) Cryptocurrency; and*

24 *(c) Natively electronic assets, including stablecoins and nonfungible tokens;*
25 *that confer economic, proprietary, or access rights or powers;*

26 *(7) "Digital asset mining" means using electricity to power a computer or node for*
27 *the purpose of securing a blockchain network;*

- 1 (8) "Digital asset mining business" means a group of computers working together
2 that consume more than one (1) megawatt of energy for the purpose of securing a
3 blockchain protocol;
- 4 (9) "Hardware wallet" means a physical device that stores private keys offline and
5 provides a way to sign transactions and interact with the blockchain;
- 6 (10) "Home digital asset mining" means using digital asset mining in an area zoned
7 for residential use;
- 8 (11) "Natively electronic asset" means a purely digital asset that exists only on the
9 blockchain network;
- 10 (12) "Node" means a computational device which contains and updates a copy of a
11 blockchain;
- 12 (13) "Nonfungible token" means a digital asset on a blockchain that:
- 13 (a) Has unique identification codes and metadata that are recorded;
14 (b) Has been tokenized and cannot be replicated;
15 (c) Is used to certify ownership and authenticity; and
16 (d) Represents digital or physical items including artwork or real estate;
- 17 (14) "Private key":
- 18 (a) Means the access to manage digital assets at a specific internet address; and
19 (b) May be used for encryption and digital signature;
- 20 (15) "Self-hosted wallet" means a digital interface that is independently hosted and
21 controlled by the owner of its digital assets and private keys who may secure and
22 transfer the digital assets;
- 23 (16) "Smart contract" has the same meaning as in KRS 42.747;
- 24 (17) "Stablecoin" means a type of cryptocurrency of which the value is tied to that of
25 another currency, commodity, or financial instrument;
- 26 (18) "Third-party wallet" means a wallet that is hosted and controlled by a party other
27 than the owner which contains the private keys for the owner of digital assets;

1 and

2 (19) "Wallet" means a digital interface or a physical device which holds digital assets
3 or private keys, and may include a:

4 (a) Hardware wallet;

5 (b) Self-hosted wallet; and

6 (c) Third-party wallet.

7 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 369 IS CREATED TO
8 READ AS FOLLOWS:

9 (1) An individual shall not be prohibited from the use of:

10 (a) Digital assets to purchase legal goods or services; or

11 (b) A wallet.

12 (2) Digital assets used as a method of payment shall not be subject to:

13 (a) Additional taxes, withholdings, assessments, or charges that are based
14 solely on the use of the digital asset as the method of payment; and

15 (b) 1. As provided in Sections 4 and 5 of this Act, income taxes on the gain
16 or loss from the sale of a digital asset for transactions less than two
17 hundred dollar (\$200).

18 2. The dollar threshold described in this paragraph shall be adjusted by
19 January 31 of each year using the average annual increase in the
20 nonseasonally adjusted annual average Consumer Price Index for All
21 Urban Consumers (CPI-U), U.S. City Average for all items, between
22 the two (2) most recent calendar years available as published by the
23 United States Bureau of Labor Statistics.

24 3. The limit in this paragraph shall not be adjusted to an amount less
25 than two hundred dollars (\$200).

26 (3) This section shall not prohibit the imposition or collection of taxes, withholdings,
27 assessments, or charges on digital assets used as the method of payment when the

1 same imposition and collections of taxes, withholdings, assessments, or charges
 2 are made on similar transactions which use the legal tender of the United States
 3 as the method of payment.

4 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 369 IS CREATED TO
 5 READ AS FOLLOWS:

6 (1) Home digital asset mining shall be allowed when:

7 (a) Compliant with the most lenient noise pollution local ordinance for a
 8 residential zoning designation; or

9 (b) There is no local ordinance regarding zoning.

10 (2) A digital asset mining business shall be allowed when compliant with the most
 11 lenient noise pollution local ordinance for an industrial zoning designation.

12 (3) The local zoning for home digital asset mining or a digital asset mining business:

13 (a) Shall not be changed from its original designation without going through
 14 the proper notice and comment established by the local government;

15 (b) May be appealed to the proper court of jurisdiction; and

16 (c) Shall be reversed upon a finding of the court that the change occurred to
 17 discriminate against the home digital asset mining or a digital asset mining
 18 business.

19 ➔Section 4. KRS 141.019 is amended to read as follows:

20 In the case of taxpayers other than corporations:

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

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

26 (b) Exclude income from supplemental annuities provided by the Railroad
 27 Retirement Act of 1937 as amended and which are subject to federal income

- 1 tax by Pub. L. No. 89-699;
- 2 (c) Include interest income derived from obligations of sister states and political
3 subdivisions thereof;
- 4 (d) Exclude employee pension contributions picked up as provided for in KRS
5 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610,
6 and 161.540 upon a ruling by the Internal Revenue Service or the federal
7 courts that these contributions shall not be included as gross income until such
8 time as the contributions are distributed or made available to the employee;
- 9 (e) Exclude Social Security and railroad retirement benefits subject to federal
10 income tax;
- 11 (f) Exclude any money received because of a settlement or judgment in a lawsuit
12 brought against a manufacturer or distributor of "Agent Orange" for damages
13 resulting from exposure to Agent Orange by a member or veteran of the
14 Armed Forces of the United States or any dependent of such person who
15 served in Vietnam;
- 16 (g) 1. a. For taxable years beginning after December 31, 2005, but before
17 January 1, 2018, exclude up to forty-one thousand one hundred ten
18 dollars (\$41,110) of total distributions from pension plans, annuity
19 contracts, profit-sharing plans, retirement plans, or employee
20 savings plans; and
- 21 b. For taxable years beginning on or after January 1, 2018, exclude
22 up to thirty-one thousand one hundred ten dollars (\$31,110) of
23 total distributions from pension plans, annuity contracts, profit-
24 sharing plans, retirement plans, or employee savings plans.
- 25 2. As used in this paragraph:
- 26 a. "Annuity contract" has the same meaning as set forth in Section
27 1035 of the Internal Revenue Code;

- 1 b. "Distributions" includes but is not limited to any lump-sum
2 distribution from pension or profit-sharing plans qualifying for the
3 income tax averaging provisions of Section 402 of the Internal
4 Revenue Code; any distribution from an individual retirement
5 account as defined in Section 408 of the Internal Revenue Code;
6 and any disability pension distribution; and
- 7 c. "Pension plans, profit-sharing plans, retirement plans, or employee
8 savings plans" means any trust or other entity created or organized
9 under a written retirement plan and forming part of a stock bonus,
10 pension, or profit-sharing plan of a public or private employer for
11 the exclusive benefit of employees or their beneficiaries and
12 includes plans qualified or unqualified under Section 401 of the
13 Internal Revenue Code and individual retirement accounts as
14 defined in Section 408 of the Internal Revenue Code;
- 15 (h) 1. a. Exclude the portion of the distributive share of a shareholder's net
16 income from an S corporation subject to the franchise tax imposed
17 under KRS 136.505 or the capital stock tax imposed under KRS
18 136.300; and
- 19 b. Exclude the portion of the distributive share of a shareholder's net
20 income from an S corporation related to a qualified subchapter S
21 subsidiary subject to the franchise tax imposed under KRS
22 136.505 or the capital stock tax imposed under KRS 136.300.
- 23 2. The shareholder's basis of stock held in an S corporation where the S
24 corporation or its qualified subchapter S subsidiary is subject to the
25 franchise tax imposed under KRS 136.505 or the capital stock tax
26 imposed under KRS 136.300 shall be the same as the basis for federal
27 income tax purposes;

- 1 (i) Exclude income received for services performed as a precinct worker for
2 election training or for working at election booths in state, county, and local
3 primaries or regular or special elections;
- 4 (j) Exclude any capital gains income attributable to property taken by eminent
5 domain;
- 6 (k) 1. Exclude all income from all sources for members of the Armed Forces
7 who are on active duty and who are killed in the line of duty, for the
8 year during which the death occurred and the year prior to the year
9 during which the death occurred.
- 10 2. For the purposes of this paragraph, "all income from all sources" shall
11 include all federal and state death benefits payable to the estate or any
12 beneficiaries;
- 13 (l) Exclude all military pay received by members of the Armed Forces while on
14 active duty;
- 15 (m) 1. Include the amount deducted for depreciation under 26 U.S.C. sec. 167
16 or 168; and
- 17 2. Exclude the amounts allowed by KRS 141.0101 for depreciation;
- 18 (n) Include the amount deducted under 26 U.S.C. sec. 199A;
- 19 (o) Ignore any change in the cost basis of the surviving spouse's share of property
20 owned by a Kentucky community property trust occurring for federal income
21 tax purposes as a result of the death of the predeceasing spouse;
- 22 (p) Allow the same treatment allowed under Pub. L. No. 116-260, secs. 276 and
23 278, related to the tax treatment of forgiven covered loans, deductions
24 attributable to those loans, and tax attributes associated with those loans for
25 taxable years ending on or after March 27, 2020, but before January 1, 2022;
26 ~~and~~
- 27 (q) For taxable years beginning on or after January 1, 2020, but before March 11,

1 2023, allow the same treatment of restaurant revitalization grants in
2 accordance with Pub. L. No. 117-2, sec. 9673 and 15 U.S.C. sec. 9009c,
3 related to the tax treatment of the grants, deductions attributable to those
4 grants, and tax attributes associated with those grants; and

5 **(r) For taxable years beginning on or after January 1, 2025, exclude the gain**
6 **or loss:**

7 **1. Related to the transactions described in subsection (2) of Section 2 of**
8 **this Act; and**

9 **2. Calculated for federal income tax purposes under Subchapter P of the**
10 **Internal Revenue Code;**

11 **if the gain or loss was less than two hundred dollars (\$200), as adjusted**
12 **under Section 2 of this Act; and**

13 (2) Net income shall be calculated by subtracting from adjusted gross income all the
14 deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as
15 modified by KRS 141.0101, except:

16 (a) Any deduction allowed by 26 U.S.C. sec. 164 for taxes;

17 (b) Any deduction allowed by 26 U.S.C. sec. 165 for losses, except wagering
18 losses allowed under Section 165(d) of the Internal Revenue Code;

19 (c) Any deduction allowed by 26 U.S.C. sec. 213 for medical care expenses;

20 (d) Any deduction allowed by 26 U.S.C. sec. 217 for moving expenses;

21 (e) Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous
22 deduction;

23 (f) Any deduction allowed by the Internal Revenue Code for amounts allowable
24 under KRS 140.090(1)(h) in calculating the value of the distributive shares of
25 the estate of a decedent, unless there is filed with the income return a
26 statement that the deduction has not been claimed under KRS 140.090(1)(h);

27 (g) Any deduction allowed by 26 U.S.C. sec. 151 for personal exemptions and

1 any other deductions in lieu thereof;

2 (h) Any deduction allowed for amounts paid to any club, organization, or
3 establishment which has been determined by the courts or an agency
4 established by the General Assembly and charged with enforcing the civil
5 rights laws of the Commonwealth, not to afford full and equal membership
6 and full and equal enjoyment of its goods, services, facilities, privileges,
7 advantages, or accommodations to any person because of race, color, religion,
8 national origin, or sex, except nothing shall be construed to deny a deduction
9 for amounts paid to any religious or denominational club, group, or
10 establishment or any organization operated solely for charitable or educational
11 purposes which restricts membership to persons of the same religion or
12 denomination in order to promote the religious principles for which it is
13 established and maintained; and

14 (i) A taxpayer may elect to claim the standard deduction allowed by KRS
15 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63
16 and as modified by this section.

17 ➔Section 5. KRS 141.039 is amended to read as follows:

18 In the case of corporations:

19 (1) Gross income shall be calculated by adjusting federal gross income as defined in
20 Section 61 of the Internal Revenue Code as follows:

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

23 (b) Exclude all dividend income;

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

26 (d) Exclude fifty percent (50%) of gross income derived from any disposal of
27 coal covered by Section 631(c) of the Internal Revenue Code if the

1 corporation does not claim any deduction for percentage depletion, or for
2 expenditures attributable to the making and administering of the contract
3 under which such disposition occurs or to the preservation of the economic
4 interests retained under such contract;

5 (e) Include the amount calculated under KRS 141.205;

6 (f) Ignore the provisions of Section 281 of the Internal Revenue Code in
7 computing gross income;

8 (g) Include the amount of depreciation deduction calculated under 26 U.S.C. sec.
9 167 or 168;

10 (h) Allow the same treatment allowed under Pub. L. No. 116-260, secs. 276 and
11 278, related to the tax treatment of forgiven covered loans, deductions
12 attributable to those loans, and tax attributes associated with those loans for
13 taxable years ending on or after March 27, 2020, but before January 1, 2022;
14 ~~and~~

15 (i) For taxable years beginning on or after January 1, 2020, but before March 11,
16 2023, allow the same treatment of restaurant revitalization grants in
17 accordance with Pub. L. No. 117-2, sec. 9673 and 15 U.S.C. sec. 9009c,
18 related to the tax treatment of the grants, deductions attributable to those
19 grants, and tax attributes associated with those grants; and

20 **(j) For taxable years beginning on or after January 1, 2025, exclude the gain**
21 **or loss:**

22 **1. Related to the transactions described in subsection (2) of Section 2 of**
23 **this Act; and**

24 **2. Calculated for federal income tax purposes under Subchapter P of the**
25 **Internal Revenue Code;**

26 **if the gain or loss was less than two hundred dollars (\$200), as adjusted**
27 **under Section 2 of this Act; and**

- 1 (2) Net income shall be calculated by subtracting from gross income:
- 2 (a) The deduction for depreciation allowed by KRS 141.0101;
- 3 (b) Any amount paid for vouchers or similar instruments that provide health
4 insurance coverage to employees or their families;
- 5 (c) All the deductions from gross income allowed corporations by Chapter 1 of
6 the Internal Revenue Code, as modified by KRS 141.0101, except:
- 7 1. Any deduction for a state tax which is computed, in whole or in part, by
8 reference to gross or net income and which is paid or accrued to any
9 state of the United States, the District of Columbia, the Commonwealth
10 of Puerto Rico, any territory or possession of the United States, or to any
11 foreign country or political subdivision thereof;
- 12 2. The deductions contained in Sections 243, 245, and 247 of the Internal
13 Revenue Code;
- 14 3. The provisions of Section 281 of the Internal Revenue Code shall be
15 ignored in computing net income;
- 16 4. Any deduction directly or indirectly allocable to income which is either
17 exempt from taxation or otherwise not taxed under the provisions of this
18 chapter, except for deductions allowed under Pub. L. No. 116-260, secs.
19 276 and 278, related to the tax treatment of forgiven covered loans and
20 deductions attributable to those loans for taxable years ending on or
21 after March 27, 2020, but before January 1, 2022; and deductions
22 allowed under Pub. L. No. 117-2, sec. 9673 and 15 U.S.C. sec. 9009c,
23 related to the tax treatment of restaurant revitalization grants and
24 deductions attributable to those grants for taxable years beginning on or
25 after January 1, 2020, but before March 11, 2023. Nothing in this
26 chapter shall be construed to permit the same item to be deducted more
27 than once;

- 1 5. Any deduction for amounts paid to any club, organization, or
- 2 establishment which has been determined by the courts or an agency
- 3 established by the General Assembly and charged with enforcing the
- 4 civil rights laws of the Commonwealth, not to afford full and equal
- 5 membership and full and equal enjoyment of its goods, services,
- 6 facilities, privileges, advantages, or accommodations to any person
- 7 because of race, color, religion, national origin, or sex, except nothing
- 8 shall be construed to deny a deduction for amounts paid to any religious
- 9 or denominational club, group, or establishment or any organization
- 10 operated solely for charitable or educational purposes which restricts
- 11 membership to persons of the same religion or denomination in order to
- 12 promote the religious principles for which it is established and
- 13 maintained;
- 14 6. Any deduction prohibited by KRS 141.205; and
- 15 7. Any dividends-paid deduction of any captive real estate investment
- 16 trust; and
- 17 (d) 1. A deferred tax deduction in an amount computed in accordance with this
- 18 paragraph.
- 19 2. For purposes of this paragraph:
- 20 a. "Net deferred tax asset" means that deferred tax assets exceed the
- 21 deferred tax liabilities of the combined group, as computed in
- 22 accordance with accounting principles generally accepted in the
- 23 United States of America; and
- 24 b. "Net deferred tax liability" means deferred tax liabilities that
- 25 exceed the deferred tax assets of a combined group as defined in
- 26 KRS 141.202, as computed in accordance with accounting
- 27 principles generally accepted in the United States of America.

- 1 3. Only publicly traded companies, including affiliated corporations
2 participating in the filing of a publicly traded company's financial
3 statements prepared in accordance with accounting principles generally
4 accepted in the United States of America, as of January 1, 2019, shall be
5 eligible for this deduction.
- 6 4. If the provisions of KRS 141.202 result in an aggregate increase to the
7 member's net deferred tax liability, an aggregate decrease to the
8 member's net deferred tax asset, or an aggregate change from a net
9 deferred tax asset to a net deferred tax liability, the combined group
10 shall be entitled to a deduction, as determined in this paragraph.
- 11 5. For ten (10) years beginning with the combined group's first taxable
12 year beginning on or after January 1, 2024, a combined group shall be
13 entitled to a deduction from the combined group's entire net income
14 equal to one-tenth (1/10) of the amount necessary to offset the increase
15 in the net deferred tax liability, decrease in the net deferred tax asset, or
16 aggregate change from a net deferred tax asset to a net deferred tax
17 liability. The increase in the net deferred tax liability, decrease in the net
18 deferred tax asset, or the aggregate change from a net deferred tax asset
19 to a net deferred tax liability shall be computed based on the change that
20 would result from the imposition of the combined reporting requirement
21 under KRS 141.202, but for the deduction provided under this paragraph
22 as of June 27, 2019.
- 23 6. The deferred tax impact determined in subparagraph 5. of this paragraph
24 shall be converted to the annual deferred tax deduction amount, as
25 follows:
- 26 a. The deferred tax impact determined in subparagraph 5. of this
27 paragraph shall be divided by the tax rate determined under KRS

1 141.040;

2 b. The resulting amount shall be further divided by the
3 apportionment factor determined by KRS 141.120 or 141.121 that
4 was used by the combined group in the calculation of the deferred
5 tax assets and deferred tax liabilities as described in subparagraph
6 5. of this paragraph; and

7 c. The resulting amount represents the total net deferred tax
8 deduction available over the ten (10) year period as described in
9 subparagraph 5. of this paragraph.

10 7. The deduction calculated under this paragraph shall not be adjusted as a
11 result of any events happening subsequent to the calculation, including
12 but not limited to any disposition or abandonment of assets. The
13 deduction shall be calculated without regard to the federal tax effect and
14 shall not alter the tax basis of any asset. If the deduction under this
15 section is greater than the combined group's entire Kentucky net income,
16 any excess deduction shall be carried forward and applied as a deduction
17 to the combined group's entire net income in future taxable years until
18 fully utilized.

19 8. Any combined group intending to claim a deduction under this
20 paragraph shall file a statement with the department on or before July 1,
21 2019. The statement shall specify the total amount of the deduction
22 which the combined group claims on the form, including calculations
23 and other information supporting the total amounts of the deduction as
24 required by the department. No deduction shall be allowed under this
25 paragraph for any taxable year, except to the extent claimed on the
26 timely filed statement in accordance with this paragraph.