

1 AN ACT relating to sales and use tax exemptions for baby and personal care
2 products.

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

4 ➔Section 1. KRS 139.010 is amended to read as follows:

5 As used in this chapter, unless the context otherwise provides:

6 (1) (a) "Admissions" means the fees paid for:

7 1. The right of entrance to a display, program, sporting event, music
8 concert, performance, play, show, movie, exhibit, fair, or other
9 entertainment or amusement event or venue; and

10 2. The privilege of using facilities or participating in an event or activity,
11 including but not limited to:

12 a. Bowling centers;

13 b. Skating rinks;

14 c. Health spas;

15 d. Swimming pools;

16 e. Tennis courts;

17 f. Weight training facilities;

18 g. Fitness and recreational sports centers; and

19 h. Golf courses, both public and private;

20 regardless of whether the fee paid is per use or in any other form,
21 including but not limited to an initiation fee, monthly fee, membership
22 fee, or combination thereof.

23 (b) "Admissions" does not include:

24 1. Any fee paid to enter or participate in a fishing tournament; or

25 2. Any fee paid for the use of a boat ramp for the purpose of allowing
26 boats to be launched into or hauled out from the water;

27 (2) "Advertising and promotional direct mail" means direct mail the primary purpose of

1 which is to attract public attention to a product, person, business, or organization, or
2 to attempt to sell, popularize, or secure financial support for a product, person,
3 business, or organization. As used in this definition, "product" means tangible
4 personal property, an item transferred electronically, or a service;

5 (3) (a) "Breast pump" means an electrically or manually controlled pump device
6 designed or marketed to be used to express milk from a human breast
7 during lactation.

8 (b) "Breast pump" includes the electrically or manually controlled pump device
9 and any battery, AC adapter, or other power supply unit packaged and sold
10 with the pump device at the time of sale to power the pump device;

11 (4) (a) "Breast pump collection and storage supplies" means items of tangible
12 personal property designed or marketed to be used in conjunction with a
13 breast pump to collect milk expressed from a human breast and to store
14 collected milk until it is ready for consumption.

15 (b) "Breast pump collection and storage supplies" includes but is not limited
16 to:

17 1. Breast shields and breast shield connectors;

18 2. Breast pump tubes and tubing adapters;

19 3. Breast pump valves and membranes;

20 4. Backflow protectors and backflow protector adaptors;

21 5. Bottles and bottle caps specific to the operation of the breast pump;

22 6. Breast milk storage bags; and

23 7. Other items that may be useful to initiate, support, or sustain
24 breastfeeding using a breast pump during lactation, that may be sold
25 separately, but are generally sold as part of a breast pump kit.

26 (c) "Breast pump collection and storage supplies" does not include, unless sold
27 as part of a breast pump kit prepackaged by the breast pump manufacturer

1 or distributor:

2 1. Bottles and bottle caps not specific to the operation of the breast
3 pump;

4 2. Breast pump travel bags and other similar carrying accessories,
5 including ice packs, labels, and other similar products;

6 3. Breast pump cleaning supplies;

7 4. Nursing bras, bra pads, breast shells, and other similar products; and

8 5. Creams, ointments, and other similar products that relieve
9 breastfeeding-related symptoms or conditions of the breasts or nipples;

10 (5) "Breast pump kit" means a kit that contains a breast pump and one (1) or more
11 of the following items:

12 (a) Breast pump collection and storage supplies; and

13 (b) Other taxable items of tangible personal property that may be useful to
14 initiate, support, or sustain breastfeeding using a breast pump during
15 lactation, so long as the other taxable items of tangible personal property
16 sold with the breast pump kit at the time of sale are less than ten percent
17 (10%) of the total sales price of the breast pump kit;

18 (6) "Business" includes any activity engaged in by any person or caused to be engaged
19 in by that person with the object of gain, benefit, or advantage, either direct or
20 indirect;

21 ~~(7)~~~~(4)~~ "Commonwealth" means the Commonwealth of Kentucky;

22 ~~(8)~~~~(5)~~ (a) "Cosmetic surgery services" means modifications to all areas of the
23 head, neck, and body to enhance appearance through surgical and medical
24 techniques.

25 (b) "Cosmetic surgery services" does not include surgery services that are
26 medically necessary to reconstruct or correct dysfunctional areas of the face
27 and body due to birth disorders, trauma, burns, or disease;

1 ~~(9)~~~~(6)~~ "Department" means the Department of Revenue;

2 **(10) "Diaper" means an absorbent garment worn by humans who are incapable of, or**
3 **have difficulty, controlling their bladder or bowel movements;**

4 ~~(11)~~~~(7)~~ (a) "Digital audio-visual works" means a series of related images which,
5 when shown in succession, impart an impression of motion, with
6 accompanying sounds, if any.

7 (b) "Digital audio-visual works" includes movies, motion pictures, musical
8 videos, news and entertainment programs, and live events.

9 (c) "Digital audio-visual works" ~~does~~~~shall~~ not include video greeting cards,
10 video games, and electronic games;

11 ~~(12)~~~~(8)~~ (a) "Digital audio works" means works that result from the fixation of a
12 series of musical, spoken, or other sounds.

13 (b) "Digital audio works" includes ringtones, recorded or live songs, music,
14 readings of books or other written materials, speeches, or other sound
15 recordings.

16 (c) "Digital audio works" ~~does~~~~shall~~ not include audio greeting cards sent by
17 electronic mail;

18 ~~(13)~~~~(9)~~ (a) "Digital books" means works that are generally recognized in the
19 ordinary and usual sense as books, including any literary work expressed in
20 words, numbers, or other verbal or numerical symbols or indicia if the literary
21 work is generally recognized in the ordinary or usual sense as a book.

22 (b) "Digital books" ~~does~~~~shall~~ not include digital audio-visual works, digital
23 audio works, periodicals, magazines, newspapers, or other news or
24 information products, chat rooms, or weblogs;

25 ~~(14)~~~~(10)~~ (a) "Digital code" means a code which provides a purchaser with a right to
26 obtain one (1) or more types of digital property. A "digital code" may be
27 obtained by any means, including electronic mail messaging or by tangible

1 means, regardless of the code's designation as a song code, video code, or
2 book code.

3 (b) "Digital code" ~~does~~^{shall} not include a code that represents:

- 4 1. A stored monetary value that is deducted from a total as it is used by the
5 purchaser; or
- 6 2. A redeemable card, gift card, or gift certificate that entitles the holder to
7 select specific types of digital property;

8 ~~(15)~~⁽¹¹⁾ (a) "Digital property" means any of the following which is transferred
9 electronically:

- 10 1. Digital audio works;
- 11 2. Digital books;
- 12 3. Finished artwork;
- 13 4. Digital photographs;
- 14 5. Periodicals;
- 15 6. Newspapers;
- 16 7. Magazines;
- 17 8. Video greeting cards;
- 18 9. Audio greeting cards;
- 19 10. Video games;
- 20 11. Electronic games; or
- 21 12. Any digital code related to this property.

22 (b) "Digital property" ~~does~~^{shall} not include digital audio-visual works or
23 satellite radio programming;

24 ~~(16)~~⁽¹²⁾ (a) "Direct mail" means printed material delivered or distributed by United
25 States mail or other delivery service to a mass audience or to addressees on a
26 mailing list provided by the purchaser or at the direction of the purchaser
27 when the cost of the items are not billed directly to the recipient.

1 (b) "Direct mail" includes tangible personal property supplied directly or
2 indirectly by the purchaser to the direct mail retailer for inclusion in the
3 package containing the printed material.

4 (c) "Direct mail" does not include multiple items of printed material delivered to
5 a single address;

6 ~~(17)~~~~(13)~~ "Directly used in the manufacturing or industrial processing process" means
7 the process that commences with the movement of raw materials from storage into
8 a continuous, unbroken, integrated process and ends when the finished product is
9 packaged and ready for sale;

10 ~~(18)~~~~(14)~~ (a) "Executive employee recruitment services" means services provided by
11 a person to locate potential candidates to fill open senior-level management
12 positions.

13 (b) "Executive employee recruitment services" includes but is not limited to
14 making a detailed list of client requirements, researching and identifying
15 potential candidates, performing prescreening interviews, and providing
16 contract and salary negotiations;

17 ~~(19)~~~~(15)~~ (a) "Extended warranty services" means services provided through a service
18 contract agreement between the contract provider and the purchaser where the
19 purchaser agrees to pay compensation for the contract and the provider agrees
20 to repair, replace, support, or maintain tangible personal property, digital
21 property, real property, or prewritten computer software access services
22 according to the terms of the contract.

23 (b) "Extended warranty services" does not include the sale of a service contract
24 agreement for tangible personal property to be used by a small telephone
25 utility as defined in KRS 278.516 or a Tier III CMRS provider as defined in
26 KRS 65.7621 to deliver communications services as defined in KRS 136.602
27 or broadband;

1 ~~(20)~~~~(16)~~ (a) "Finished artwork" means final art that is used for actual reproduction
2 by photomechanical or other processes or for display purposes.

3 (b) "Finished artwork" includes:

- 4 1. Assemblies;
- 5 2. Charts;
- 6 3. Designs;
- 7 4. Drawings;
- 8 5. Graphs;
- 9 6. Illustrative materials;
- 10 7. Lettering;
- 11 8. Mechanicals;
- 12 9. Paintings; and
- 13 10. Paste-ups;

14 ~~(21)~~~~(17)~~ (a) "Gross receipts" and "sales price" mean the total amount or
15 consideration, including cash, credit, property, and services, for which
16 tangible personal property, digital property, or services are sold, leased, or
17 rented, valued in money, whether received in money or otherwise, without
18 any deduction for any of the following:

- 19 1. The retailer's cost of the tangible personal property, digital property, or
20 services sold;
- 21 2. The cost of the materials used, labor or service cost, interest, losses, all
22 costs of transportation to the retailer, all taxes imposed on the retailer, or
23 any other expense of the retailer;
- 24 3. Charges by the retailer for any services necessary to complete the sale;
- 25 4. Delivery charges, which are defined as charges by the retailer for the
26 preparation and delivery to a location designated by the purchaser
27 including transportation, shipping, postage, handling, crating, and

1 packing;

2 5. Any amount for which credit is given to the purchaser by the retailer,
3 other than credit for tangible personal property or digital property traded
4 when the tangible personal property or digital property traded is of like
5 kind and character to the property purchased and the property traded is
6 held by the retailer for resale; and

7 6. The amount charged for labor or services rendered in installing or
8 applying the tangible personal property, digital property, or service sold.

9 (b) "Gross receipts" and "sales price" ~~shall~~ include consideration received by
10 the retailer from a third party if:

11 1. The retailer actually receives consideration from a third party and the
12 consideration is directly related to a price reduction or discount on the
13 sale to the purchaser;

14 2. The retailer has an obligation to pass the price reduction or discount
15 through to the purchaser;

16 3. The amount of consideration attributable to the sale is fixed and
17 determinable by the retailer at the time of the sale of the item to the
18 purchaser; and

19 4. One (1) of the following criteria is met:

20 a. The purchaser presents a coupon, certificate, or other
21 documentation to the retailer to claim a price reduction or discount
22 where the coupon, certificate, or documentation is authorized,
23 distributed, or granted by a third party with the understanding that
24 the third party will reimburse any seller to whom the coupon,
25 certificate, or documentation is presented;

26 b. The price reduction or discount is identified as a third-party price
27 reduction or discount on the invoice received by the purchaser or

1 on a coupon, certificate, or other documentation presented by the
2 purchaser; or

3 c. The purchaser identifies himself or herself to the retailer as a
4 member of a group or organization entitled to a price reduction or
5 discount. A "preferred customer" card that is available to any
6 patron does not constitute membership in such a group.

7 (c) "Gross receipts" and "sales price" ~~do~~^{shall} not include:

8 1. Discounts, including cash, term, or coupons that are not reimbursed by a
9 third party and that are allowed by a retailer and taken by a purchaser on
10 a sale;

11 2. Interest, financing, and carrying charges from credit extended on the
12 sale of tangible personal property, digital property, or services, if the
13 amount is separately stated on the invoice, bill of sale, or similar
14 document given to the purchaser;

15 3. Any taxes legally imposed directly on the purchaser that are separately
16 stated on the invoice, bill of sale, or similar document given to the
17 purchaser; or

18 4. Local alcohol regulatory license fees authorized under KRS 243.075 that
19 are separately stated on the invoice, bill of sale, or similar document
20 given to the purchaser.

21 (d) As used in this subsection, "third party" means a person other than the
22 purchaser;

23 ~~(22)~~⁽¹⁸⁾ "In this state" or "in the state" means within the exterior limits of the
24 Commonwealth and includes all territory within these limits owned by or ceded to
25 the United States of America;

26 **(23) "Incontinence product" means one (1) or a combination of the following:**

27 **(a) Diaper;**

1 (b) Pad, liner, and booster pad; and

2 (c) Incontinence underpad;

3 (24) "Incontinence underpad" means an absorbent product, not worn on the body,
 4 designed to protect furniture or other tangible personal property from soiling or
 5 damage due to human incontinence;

6 (25)~~(19)~~ "Industrial processing" includes:

7 (a) Refining;

8 (b) Extraction of minerals, ores, coal, clay, stone, petroleum, or natural gas;

9 (c) Mining, quarrying, fabricating, and industrial assembling;

10 (d) The processing and packaging of raw materials, in-process materials, and
 11 finished products; and

12 (e) The processing and packaging of farm and dairy products for sale;

13 (26)~~(20)~~ (a) "Lease or rental" means any transfer of possession or control of tangible
 14 personal property for a fixed or indeterminate term for consideration. A lease
 15 or rental shall include future options to:

16 1. Purchase the property; or

17 2. Extend the terms of the agreement and agreements covering trailers
 18 where the amount of consideration may be increased or decreased by
 19 reference to the amount realized upon sale or disposition of the property
 20 as defined in 26 U.S.C. sec. 7701(h)(1).

21 (b) "Lease or rental" does~~shall~~ not include:

22 1. A transfer of possession or control of property under a security
 23 agreement or deferred payment plan that requires the transfer of title
 24 upon completion of the required payments;

25 2. A transfer of possession or control of property under an agreement that
 26 requires the transfer of title upon completion of the required payments
 27 and payment of an option price that does not exceed the greater of one

1 hundred dollars (\$100) or one percent (1%) of the total required
2 payments; or

3 3. Providing tangible personal property and an operator for the tangible
4 personal property for a fixed or indeterminate period of time. To qualify
5 for this exclusion, the operator must be necessary for the equipment to
6 perform as designed, and the operator must do more than maintain,
7 inspect, or setup the tangible personal property.

8 (c) This definition shall apply regardless of the classification of a transaction
9 under generally accepted accounting principles, the Internal Revenue Code, or
10 other provisions of federal, state, or local law;

11 ~~(27)~~~~(21)~~ (a) "Lobbying services" means the act of promoting or securing passage of
12 legislation or an attempt to influence or sway a public official or other public
13 servant toward a desired action, including but not limited to the support of or
14 opposition to a project or the passage, amendment, defeat, approval, or veto of
15 any legislation, regulation, rule, or ordinance;

16 (b) "Lobbying services" includes but is not limited to the performance of
17 activities described as executive agency lobbying activities as defined in KRS
18 11A.201, activities described under the definition of lobby in KRS 6.611, and
19 any similar activities performed at the local, state, or federal levels;

20 ~~(28)~~~~(22)~~ (a) "Machinery for new and expanded industry" means machinery:

- 21 1. Directly used in the manufacturing or industrial processing process of:
- 22 a. Tangible personal property at a plant facility;
- 23 b. Distilled spirits or wine at a plant facility or on the premises of a
24 distiller, rectifier, winery, or small farm winery licensed under
25 KRS 243.030 that includes a retail establishment on the premises;
26 or
- 27 c. Malt beverages at a plant facility or on the premises of a brewer or

1 microbrewery licensed under KRS 243.040 that includes a retail
2 establishment;

3 2. Which is incorporated for the first time into:

4 a. A plant facility established in this state; or

5 b. Licensed premises located in this state; and

6 3. Which does not replace machinery in the plant facility or licensed
7 premises unless that machinery purchased to replace existing machinery:

8 a. Increases the consumption of recycled materials at the plant
9 facility by not less than ten percent (10%);

10 b. Performs different functions;

11 c. Is used to manufacture a different product; or

12 d. Has a greater productive capacity, as measured in units of
13 production, than the machinery being replaced.

14 (b) "Machinery for new and expanded industry" does not include repair,
15 replacement, or spare parts of any kind, regardless of whether the purchase of
16 repair, replacement, or spare parts is required by the manufacturer or seller as
17 a condition of sale or as a condition of warranty;

18 ~~(29)~~~~[(23)]~~ "Manufacturing" means any process through which material having little or
19 no commercial value for its intended use before processing has appreciable
20 commercial value for its intended use after processing by the machinery;

21 ~~(30)~~~~[(24)]~~ "Marketplace" means any physical or electronic means through which one (1)
22 or more retailers may advertise and sell tangible personal property, digital property,
23 or services, or lease tangible personal property or digital property, such as a catalog,
24 internet website, or television or radio broadcast, regardless of whether the tangible
25 personal property, digital property, or retailer is physically present in this state;

26 ~~(31)~~~~[(25)]~~ (a) "Marketplace provider" means a person, including any affiliate of the
27 person, that facilitates a retail sale by satisfying subparagraphs 1. and 2. of

1 this paragraph as follows:

2 1. The person directly or indirectly:

3 a. Lists, makes available, or advertises tangible personal property,
4 digital property, or services for sale by a marketplace retailer in a
5 marketplace owned, operated, or controlled by the person;

6 b. Facilitates the sale of a marketplace retailer's product through a
7 marketplace by transmitting or otherwise communicating an offer
8 or acceptance of a retail sale of tangible personal property, digital
9 property, or services between a marketplace retailer and a
10 purchaser in a forum including a shop, store, booth, catalog,
11 internet site, or similar forum;

12 c. Owns, rents, licenses, makes available, or operates any electronic
13 or physical infrastructure or any property, process, method,
14 copyright, trademark, or patent that connects marketplace retailers
15 to purchasers for the purpose of making retail sales of tangible
16 personal property, digital property, or services;

17 d. Provides a marketplace for making retail sales of tangible personal
18 property, digital property, or services, or otherwise facilitates retail
19 sales of tangible personal property, digital property, or services,
20 regardless of ownership or control of the tangible personal
21 property, digital property, or services, that are the subject of the
22 retail sale;

23 e. Provides software development or research and development
24 activities related to any activity described in this subparagraph, if
25 the software development or research and development activities
26 are directly related to the physical or electronic marketplace
27 provided by a marketplace provider;

- 1 f. Provides or offers fulfillment or storage services for a marketplace
2 retailer;
- 3 g. Sets prices for a marketplace retailer's sale of tangible personal
4 property, digital property, or services;
- 5 h. Provides or offers customer service to a marketplace retailer or a
6 marketplace retailer's customers, or accepts or assists with taking
7 orders, returns, or exchanges of tangible personal property, digital
8 property, or services sold by a marketplace retailer; or
- 9 i. Brands or otherwise identifies sales as those of the marketplace
10 provider; and
- 11 2. The person directly or indirectly:
- 12 a. Collects the sales price or purchase price of a retail sale of tangible
13 personal property, digital property, or services;
- 14 b. Provides payment processing services for a retail sale of tangible
15 personal property, digital property, or services;
- 16 c. Through terms and conditions, agreements, or arrangements with a
17 third party, collects payment in connection with a retail sale of
18 tangible personal property, digital property, or services from a
19 purchaser and transmits that payment to the marketplace retailer,
20 regardless of whether the person collecting and transmitting the
21 payment receives compensation or other consideration in exchange
22 for the service; or
- 23 d. Provides a virtual currency that purchasers are allowed or required
24 to use to purchase tangible personal property, digital property, or
25 services.
- 26 (b) "Marketplace provider" includes but is not limited to a person that satisfies the
27 requirements of this subsection through the ownership, operation, or control

1 of a digital distribution service, digital distribution platform, online portal, or
2 application store;

3 ~~(32)~~~~(26)~~ "Marketplace retailer" means a seller that makes retail sales through any
4 marketplace owned, operated, or controlled by a marketplace provider;

5 **(33) (a) "Menstrual discharge collection devices" means tampons, panty liners,**
6 **menstrual cups, pads, period underwear, other items of clothing that are**
7 **marketed specifically for use as menstrual discharge collection devices for**
8 **the human menstrual cycle, such as period swimwear, period running**
9 **shorts, or period sleep shorts, and other similar tangible personal property**
10 **designed for use in connection with the human menstrual cycle.**

11 **(b) "Menstrual discharge collection devices" does not include grooming and**
12 **hygiene products as defined in KRS 139.472;**

13 ~~(34)~~~~(27)~~ (a) "Occasional sale" includes:

14 1. A sale of tangible personal property or digital property not held or used
15 by a seller in the course of an activity for which he or she is required to
16 hold a seller's permit, provided such sale is not one (1) of a series of
17 sales sufficient in number, scope, and character to constitute an activity
18 requiring the holding of a seller's permit. In the case of the sale of the
19 entire, or a substantial portion of the nonretail assets of the seller, the
20 number of previous sales of similar assets shall be disregarded in
21 determining whether or not the current sale or sales shall qualify as an
22 occasional sale; or

23 2. Any transfer of all or substantially all the tangible personal property or
24 digital property held or used by a person in the course of such an activity
25 when after such transfer the real or ultimate ownership of such property
26 is substantially similar to that which existed before such transfer.

27 (b) For the purposes of this subsection, stockholders, bondholders, partners, or

1 other persons holding an interest in a corporation or other entity are regarded
2 as having the "real or ultimate ownership" of the tangible personal property or
3 digital property of such corporation or other entity;

4 ~~(35)~~~~(28)~~ (a) "Other direct mail" means any direct mail that is not advertising and
5 promotional direct mail, regardless of whether advertising and promotional
6 direct mail is included in the same mailing.

7 (b) "Other direct mail" includes but is not limited to:

- 8 1. Transactional direct mail that contains personal information specific to
9 the addressee, including but not limited to invoices, bills, statements of
10 account, and payroll advices;
- 11 2. Any legally required mailings, including but not limited to privacy
12 notices, tax reports, and stockholder reports; and
- 13 3. Other nonpromotional direct mail delivered to existing or former
14 shareholders, customers, employees, or agents, including but not limited
15 to newsletters and informational pieces.

16 (c) "Other direct mail" does not include the development of billing information or
17 the provision of any data processing service that is more than incidental to the
18 production of printed material;

19 **(36) "Pad, liner, and booster pad" means an absorbent product used separately or in**
20 **combination with diapers to manage bladder or bowel incontinence;**

21 ~~(37)~~~~(29)~~ "Person" includes any individual, firm, copartnership, joint venture,
22 association, social club, fraternal organization, corporation, estate, trust, business
23 trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or
24 agency, or any other group or combination acting as a unit;

25 ~~(38)~~~~(30)~~ "Permanent," as the term applies to digital property, means perpetual or for an
26 indefinite or unspecified length of time;

27 ~~(39)~~~~(31)~~ (a) "Photography and photofinishing services" means:

- 1 1. The taking, developing, or printing of an original photograph; or
- 2 2. Image editing, including shadow removal, tone adjustments, vertical and
- 3 horizontal alignment and cropping, composite image creation,
- 4 formatting, watermarking printing, and delivery of an original
- 5 photograph in the form of tangible personal property, digital property, or
- 6 other media.

7 (b) "Photography and photofinishing services" does not include photography
8 services necessary for medical or dental health;

9 ~~(40)~~~~(32)~~ "Plant facility" means a single location that is exclusively dedicated to
10 manufacturing or industrial processing activities. A location shall be deemed to be
11 exclusively dedicated to manufacturing or industrial processing activities even if
12 retail sales are made there, provided that the retail sales are incidental to the
13 manufacturing or industrial processing activities occurring at the location. The term
14 "plant facility" shall not include any restaurant, grocery store, shopping center, or
15 other retail establishment;

16 ~~(41)~~~~(33)~~ (a) "Prewritten computer software" means:

- 17 1. Computer software, including prewritten upgrades, that are not designed
18 and developed by the author or other creator to the specifications of a
19 specific purchaser;
- 20 2. Software designed and developed by the author or other creator to the
21 specifications of a specific purchaser when it is sold to a person other
22 than the original purchaser; or
- 23 3. Any portion of prewritten computer software that is modified or
24 enhanced in any manner, where the modification or enhancement is
25 designed and developed to the specifications of a specific purchaser,
26 unless there is a reasonable, separately stated charge on an invoice or
27 other statement of the price to the purchaser for the modification or

1 enhancement.

2 (b) When a person modifies or enhances computer software of which the person
3 is not the author or creator, the person shall be deemed to be the author or
4 creator only of the modifications or enhancements the person actually made.

5 (c) The combining of two (2) or more prewritten computer software programs or
6 portions thereof does not cause the combination to be other than prewritten
7 computer software;

8 ~~(42)~~~~[(34)]~~ "Prewritten computer software access services" means the right of access to
9 prewritten computer software where the object of the transaction is to use the
10 prewritten computer software while possession of the prewritten computer software
11 is maintained by the seller or a third party, wherever located, regardless of whether
12 the charge for the access or use is on a per use, per user, per license, subscription, or
13 some other basis;

14 ~~(43)~~~~[(35)]~~ (a) "Purchase" means any transfer of title or possession, exchange, barter,
15 lease, or rental, conditional or otherwise, in any manner or by any means
16 whatsoever, of:

- 17 1. Tangible personal property;
 - 18 2. An extended warranty service;
 - 19 3. Digital property transferred electronically; or
 - 20 4. Services included in KRS 139.200;
- 21 for a consideration.

22 (b) "Purchase" includes:

- 23 1. When performed outside this state or when the customer gives a resale
24 certificate, the producing, fabricating, processing, printing, or imprinting
25 of tangible personal property for a consideration for consumers who
26 furnish either directly or indirectly the materials used in the producing,
27 fabricating, processing, printing, or imprinting;

1 2. A transaction whereby the possession of tangible personal property or
2 digital property is transferred but the seller retains the title as security
3 for the payment of the price; and

4 3. A transfer for a consideration of the title or possession of tangible
5 personal property or digital property which has been produced,
6 fabricated, or printed to the special order of the customer, or of any
7 publication;

8 ~~(44)~~~~[(36)]~~ "Recycled materials" means materials which have been recovered or diverted
9 from the solid waste stream and reused or returned to use in the form of raw
10 materials or products;

11 ~~(45)~~~~[(37)]~~ "Recycling purposes" means those activities undertaken in which materials
12 that would otherwise become solid waste are collected, separated, or processed in
13 order to be reused or returned to use in the form of raw materials or products;

14 ~~(46)~~~~[(38)]~~ "Remote retailer" means a retailer with no physical presence in this state;

15 ~~(47)~~~~[(39)]~~ (a) "Repair, replacement, or spare parts" means any tangible personal
16 property used to maintain, restore, mend, or repair machinery or equipment.

17 (b) "Repair, replacement, or spare parts" does not include machine oils, grease, or
18 industrial tools;

19 ~~(48)~~~~[(40)]~~ (a) "Retailer" means:

20 1. Every person engaged in the business of making retail sales of tangible
21 personal property, digital property, or furnishing any services in a retail
22 sale included in KRS 139.200;

23 2. Every person engaged in the business of making sales at auction of
24 tangible personal property or digital property owned by the person or
25 others for storage, use or other consumption, except as provided in
26 paragraph (c) of this subsection;

27 3. Every person making more than two (2) retail sales of tangible personal

1 property, digital property, or services included in KRS 139.200 during
2 any twelve (12) month period, including sales made in the capacity of
3 assignee for the benefit of creditors, or receiver or trustee in bankruptcy;

4 4. Any person conducting a race meeting under the provision of KRS
5 Chapter 230, with respect to horses which are claimed during the
6 meeting.

7 (b) When the department determines that it is necessary for the efficient
8 administration of this chapter to regard any salesmen, representatives,
9 peddlers, or canvassers as the agents of the dealers, distributors, supervisors or
10 employers under whom they operate or from whom they obtain the tangible
11 personal property, digital property, or services sold by them, irrespective of
12 whether they are making sales on their own behalf or on behalf of the dealers,
13 distributors, supervisors or employers, the department may so regard them and
14 may regard the dealers, distributors, supervisors or employers as retailers for
15 purposes of this chapter.

16 (c) 1. Any person making sales at a charitable auction for a qualifying entity
17 shall not be a retailer for purposes of the sales made at the charitable
18 auction if:

19 a. The qualifying entity, not the person making sales at the auction, is
20 sponsoring the auction;

21 b. The purchaser of tangible personal property at the auction directly
22 pays the qualifying entity sponsoring the auction for the property
23 and not the person making the sales at the auction; and

24 c. The qualifying entity, not the person making sales at the auction, is
25 responsible for the collection, control, and disbursement of the
26 auction proceeds.

27 2. If the conditions set forth in subparagraph 1. of this paragraph are met,

1 the qualifying entity sponsoring the auction shall be the retailer for
2 purposes of the sales made at the charitable auction.

3 3. For purposes of this paragraph, "qualifying entity" means a resident:

4 a. Church;

5 b. School;

6 c. Civic club; or

7 d. Any other nonprofit charitable, religious, or educational
8 organization;

9 ~~(49)~~~~((41))~~ "Retail sale" means any sale, lease, or rental for any purpose other than resale,
10 sublease, or subrent;

11 ~~(50)~~~~((42))~~ (a) "Ringtones" means digitized sound files that are downloaded onto a
12 device and that may be used to alert the customer with respect to a
13 communication.

14 (b) "Ringtones" ~~does~~~~shall~~ not include ringback tones or other digital files that
15 are not stored on the purchaser's communications device;

16 ~~(51)~~~~((43))~~ (a) "Sale" means:

17 1. The furnishing of any services included in KRS 139.200; ***or***

18 2. Any transfer of title or possession, exchange, barter, lease, or rental,
19 conditional or otherwise, in any manner or by any means whatsoever,
20 of:

21 a. Tangible personal property; or

22 b. Digital property transferred electronically;

23 for a consideration.

24 (b) "Sale" includes but is not limited to:

25 1. The producing, fabricating, processing, printing, or imprinting of
26 tangible personal property or digital property for a consideration for
27 purchasers who furnish, either directly or indirectly, the materials used

1 in the producing, fabricating, processing, printing, or imprinting;

2 2. A transaction whereby the possession of tangible personal property or
3 digital property is transferred, but the seller retains the title as security
4 for the payment of the price; and

5 3. A transfer for a consideration of the title or possession of tangible
6 personal property or digital property which has been produced,
7 fabricated, or printed to the special order of the purchaser.

8 (c) This definition shall apply regardless of the classification of a transaction
9 under generally accepted accounting principles, the Internal Revenue Code, or
10 other provisions of federal, state, or local law;

11 ~~(52)~~~~(44)~~ "Seller" includes every person engaged in the business of selling tangible
12 personal property, digital property, or services of a kind, the gross receipts from the
13 retail sale of which are required to be included in the measure of the sales tax, and
14 every person engaged in making sales for resale;

15 ~~(53)~~~~(45)~~ (a) "Storage" includes any keeping or retention in this state for any purpose
16 except sale in the regular course of business or subsequent use solely outside
17 this state of tangible personal property, digital property, or prewritten
18 computer software access services purchased from a retailer.

19 (b) "Storage" does not include the keeping, retaining, or exercising any right or
20 power over tangible personal property for the purpose of subsequently
21 transporting it outside the state for use thereafter solely outside the state, or
22 for the purpose of being processed, fabricated, or manufactured into, attached
23 to, or incorporated into, other tangible personal property to be transported
24 outside the state and thereafter used solely outside the state;

25 ~~(54)~~~~(46)~~ "Tangible personal property" means personal property which may be seen,
26 weighed, measured, felt, or touched, or which is in any other manner perceptible to
27 the senses and includes natural, artificial, and mixed gas, electricity, water, steam,

1 and prewritten computer software;

2 ~~(55)~~~~(47)~~ "Taxpayer" means any person liable for tax under this chapter;

3 ~~(56)~~~~(48)~~ "Telemarketing services" means services provided via telephone, facsimile,
4 electronic mail, text messages, or other modes of communications to another
5 person, which are unsolicited by that person, for the purposes of:

6 (a) 1. Promoting products or services;

7 2. Taking orders; or

8 3. Providing information or assistance regarding the products or services;

9 or

10 (b) Soliciting contributions;

11 ~~(57)~~~~(49)~~ "Transferred electronically" means accessed or obtained by the purchaser by
12 means other than tangible storage media; and

13 ~~(58)~~~~(50)~~ (a) "Use" includes the exercise of:

14 1. Any right or power over tangible personal property or digital property
15 incident to the ownership of that property, or by any transaction in
16 which possession is given, or by any transaction involving digital
17 property or tangible personal property where the right of access is
18 granted; or

19 2. Any right or power to benefit from any services subject to tax under
20 KRS 139.200(2)(p) to (ax).

21 (b) "Use" does not include the keeping, retaining, or exercising any right or
22 power over:

23 1. Tangible personal property or digital property for the purpose of:

24 a. Selling tangible personal property or digital property in the regular
25 course of business; or

26 b. Subsequently transporting tangible personal property outside the
27 state for use thereafter solely outside the state, or for the purpose

1 of being processed, fabricated, or manufactured into, attached to,
2 or incorporated into, other tangible personal property to be
3 transported outside the state and thereafter used solely outside the
4 state; or

5 2. Prewritten computer software access services purchased for use outside
6 the state and transferred electronically outside the state for use thereafter
7 solely outside the state.

8 ➔Section 2. KRS 139.480 is amended to read as follows:

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

12 (1) Locomotives or rolling stock, including materials for the construction, repair, or
13 modification thereof, or fuel or supplies for the direct operation of locomotives and
14 trains, used or to be used in interstate commerce;

15 (2) Coal for the manufacture of electricity;

16 (3) (a) All energy or energy-producing fuels used in the course of manufacturing,
17 processing, mining, or refining and any related distribution, transmission, and
18 transportation services for this energy that are billed to the user, to the extent
19 that the cost of the energy or energy-producing fuels used, and related
20 distribution, transmission, and transportation services for this energy that are
21 billed to the user exceed three percent (3%) of the cost of production.

22 (b) Cost of production shall be computed on the basis of a plant facility, which
23 shall include all operations within the continuous, unbroken, integrated
24 manufacturing or industrial processing process that ends with a product
25 packaged and ready for sale.

26 (c) A person who performs a manufacturing or industrial processing activity for a
27 fee and does not take ownership of the tangible personal property that is

1 incorporated into, or becomes the product of, the manufacturing or industrial
2 processing activity is a toller. For periods on or after July 1, 2018, the costs of
3 the tangible personal property shall be excluded from the toller's cost of
4 production at a plant facility with tolling operations in place as of July 1,
5 2018.

6 (d) For plant facilities that begin tolling operations after July 1, 2018, the costs of
7 tangible personal property shall be excluded from the toller's cost of
8 production if the toller:

- 9 1. Maintains a binding contract for periods after July 1, 2018, that governs
10 the terms, conditions, and responsibilities with a separate legal entity,
11 which holds title to the tangible personal property that is incorporated
12 into, or becomes the product of, the manufacturing or industrial
13 processing activity;
- 14 2. Maintains accounting records that show the expenses it incurs to fulfill
15 the binding contract that include but are not limited to energy or energy-
16 producing fuels, materials, labor, procurement, depreciation,
17 maintenance, taxes, administration, and office expenses;
- 18 3. Maintains separate payroll, bank accounts, tax returns, and other records
19 that demonstrate its independent operations in the performance of its
20 tolling responsibilities;
- 21 4. Demonstrates one (1) or more substantial business purposes for the
22 tolling operations germane to the overall manufacturing, industrial
23 processing activities, or corporate structure at the plant facility. A
24 business purpose is a purpose other than the reduction of sales tax
25 liability for the purchases of energy and energy-producing fuels; and
- 26 5. Provides information to the department upon request that documents
27 fulfillment of the requirements in subparagraphs 1. to 4. of this

1 paragraph and gives an overview of its tolling operations with an
2 explanation of how the tolling operations relate and connect with all
3 other manufacturing or industrial processing activities occurring at the
4 plant facility;

5 (4) Livestock of a kind the products of which ordinarily constitute food for human
6 consumption, provided the sales are made for breeding or dairy purposes and by or
7 to a person regularly engaged in the business of farming;

8 (5) Poultry for use in breeding or egg production;

9 (6) Farm work stock for use in farming operations;

10 (7) Seeds, the products of which ordinarily constitute food for human consumption or
11 are to be sold in the regular course of business, and commercial fertilizer to be
12 applied on land, the products from which are to be used for food for human
13 consumption or are to be sold in the regular course of business; provided the sales
14 are made to farmers who are regularly engaged in the occupation of tilling and
15 cultivating the soil for the production of crops as a business, or who are regularly
16 engaged in the occupation of raising and feeding livestock or poultry or producing
17 milk for sale; and provided further that tangible personal property so sold is to be
18 used only by those persons designated above who are so purchasing;

19 (8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be
20 used in the production of crops as a business, or in the raising and feeding of
21 livestock or poultry, the products of which ordinarily constitute food for human
22 consumption;

23 (9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the
24 products of which ordinarily constitute food for human consumption;

25 (10) Machinery for new and expanded industry;

26 (11) Farm machinery. As used in this section, the term "farm machinery":

27 (a) Means machinery used exclusively and directly in the occupation of:

- 1 1. Tilling the soil for the production of crops as a business;
- 2 2. Raising and feeding livestock or poultry for sale; or
- 3 3. Producing milk for sale;
- 4 (b) Includes machinery, attachments, and replacements therefor, repair parts, and
- 5 replacement parts which are used or manufactured for use on, or in the
- 6 operation of farm machinery and which are necessary to the operation of the
- 7 machinery, and are customarily so used, including but not limited to combine
- 8 header wagons, combine header trailers, or any other implements specifically
- 9 designed and used to move or transport a combine head; and
- 10 (c) Does not include:
- 11 1. Automobiles;
- 12 2. Trucks;
- 13 3. Trailers, except combine header trailers; or
- 14 4. Truck-trailer combinations;
- 15 (12) Tombstones and other memorial grave markers;
- 16 (13) On-farm facilities used exclusively for grain or soybean storing, drying, processing,
- 17 or handling. The exemption applies to the equipment, machinery, attachments,
- 18 repair and replacement parts, and any materials incorporated into the construction,
- 19 renovation, or repair of the facilities;
- 20 (14) On-farm facilities used exclusively for raising poultry or livestock. The exemption
- 21 shall apply to the equipment, machinery, attachments, repair and replacement parts,
- 22 and any materials incorporated into the construction, renovation, or repair of the
- 23 facilities. The exemption shall apply but not be limited to vent board equipment,
- 24 waterer and feeding systems, brooding systems, ventilation systems, alarm systems,
- 25 and curtain systems. In addition, the exemption shall apply whether or not the seller
- 26 is under contract to deliver, assemble, and incorporate into real estate the
- 27 equipment, machinery, attachments, repair and replacement parts, and any materials

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

1 modification, or expansion of a blast furnace or any of its components or
2 appurtenant equipment or structures as part of an approved supplemental
3 project, as defined by KRS 154.26-010; and

4 2. Materials, supplies, and repair or replacement parts purchased for use in
5 the operation and maintenance of a blast furnace and related carbon
6 steel-making operations as part of an approved supplemental project, as
7 defined by KRS 154.26-010.

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

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

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

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

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

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

24 (a) Feed and feed additives;

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

27 (c) On-farm facilities, including equipment, machinery, attachments, repair and

1 replacement parts, and any materials incorporated into the construction,
2 renovation, or repair of the facilities. The exemption shall apply to incubation
3 systems, egg processing equipment, waterer and feeding systems, brooding
4 systems, ventilation systems, alarm systems, and curtain systems. In addition,
5 the exemption shall apply whether or not the seller is under contract to
6 deliver, assemble, and incorporate into real estate the equipment, machinery,
7 attachments, repair and replacement parts, and any materials incorporated into
8 the construction, renovation, or repair of the facilities;

9 (24) Embryos and semen that are used in the reproduction of livestock, if the products of
10 these embryos and semen ordinarily constitute food for human consumption, and if
11 the sale is made to a person engaged in the business of farming;

12 (25) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for
13 the breeding and production of hides, breeding stock, fiber and wool products,
14 meat, and llama and alpaca by-products, and the following items used in this
15 pursuit:

16 (a) Feed and feed additives;

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

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

27 (26) Baling twine and baling wire for the baling of hay and straw;

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

1 and

2 (d) On-farm facilities, including equipment, machinery, attachments, repair and
3 replacement parts, and any materials incorporated into the construction,
4 renovation, or repair of the facilities and, any gasoline, special fuels, liquefied
5 petroleum gas, or natural gas used to operate the facilities. The exemption
6 shall apply, but not be limited to: waterer and feeding systems; ventilation,
7 aeration, and heating systems; processing and storage systems; production
8 systems such as ponds, tanks, and raceways; harvest and transport equipment
9 and systems; and alarm systems. In addition, the exemption shall apply
10 whether or not the seller is under contract to deliver, assemble, and
11 incorporate into real estate the equipment, machinery, attachments, repair and
12 replacement parts, and any materials incorporated into the construction,
13 renovation, or repair of the facilities;

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

17 (a) Feed and feed additives;

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

19 (c) On-site facilities, including equipment, machinery, attachments, repair and
20 replacement parts, and any materials incorporated into the construction,
21 renovation, or repair of the facilities. In addition, the exemption shall apply
22 whether or not the seller is under contract to deliver, assemble, and
23 incorporate into real estate the equipment, machinery, attachments, repair and
24 replacement parts, and any materials incorporated into the construction,
25 renovation, or repair of the facilities;

26 (31) (a) Repair or replacement parts for the direct operation or maintenance of a motor
27 vehicle, including any towed unit, used exclusively in interstate commerce for

1 the conveyance of property or passengers for hire, provided the motor vehicle
2 is licensed for use on the highway and its declared gross vehicle weight with
3 any towed unit is forty-four thousand and one (44,001) pounds or greater.
4 Nominal intrastate use shall not subject the property to the taxes imposed by
5 this chapter; and

6 (b) Repair or replacement parts for the direct operation and maintenance of a
7 motor vehicle operating under a charter bus certificate issued by the
8 Transportation Cabinet under KRS Chapter 281, or under similar authority
9 granted by the United States Department of Transportation.

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

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

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

24 (34) (a) Building materials, fixtures, or supplies purchased by a construction
25 contractor if:

26 1. Fulfilled by a construction contract for a sewer or water project with:

27 a. A municipally owned water utility organized under KRS Chapter

- 1 96;
- 2 b. A water district or water commission formed or organized under
- 3 KRS Chapter 74;
- 4 c. A sanitation district established under KRS Chapter 220 or formed
- 5 pursuant to KRS Chapter 65;
- 6 d. A nonprofit corporation created under KRS 58.180 to act on behalf
- 7 of a governmental agency in the acquisition and financing of
- 8 public projects;
- 9 e. Regional wastewater commissions formed under KRS Chapter
- 10 278;
- 11 f. A municipally owned joint sewer agency formed under KRS
- 12 Chapter 76; or
- 13 g. Any other governmental agency; and
- 14 2. The building materials, fixtures, or supplies:
- 15 a. Will be permanently incorporated into a structure or improvement
- 16 to real property, or will be completely consumed, in fulfilling a
- 17 construction contract for the purpose of furnishing water or sewer
- 18 services to the general public; and
- 19 b. Would be exempt if purchased directly by the entities listed in
- 20 subparagraph 1. of this paragraph.
- 21 (b) As used in this subsection, "construction contract" means a:
- 22 1. Lump sum contract;
- 23 2. Cost plus contract;
- 24 3. Materials only contract;
- 25 4. Labor and materials contract; or
- 26 5. Any other type of contract.
- 27 (c) The exemption provided in this subsection shall apply without regard to the

1 payment arrangement between the construction contractor, the retailer, and
2 the entities listed in paragraph (a)1. of this subsection or to the place of
3 delivery for the building materials, fixtures, or supplies;

4 (35) (a) On or after February 25, 2022, the rental of space for meetings, conventions,
5 short-term business uses, entertainment events, weddings, banquets, parties,
6 and other short-term social events, as referenced in KRS 139.200, if the tax
7 established in KRS 139.200 is paid by the primary lessee to the lessor.

8 (b) For the purpose of this subsection, "primary lessee" means the person who
9 leases the space and who has a contract with the lessor of the space only if:

10 1. The contract between the lessor and the lessee specifies that the lessee
11 may sublease, subrent, or otherwise sell the space; and

12 2. The space is then sublet, subrented, or otherwise sold to exhibitors,
13 vendors, sponsors, or other entities and persons who will use the space
14 associated with the event to be conducted under the primary lease;

15 (36) Prewritten computer software access services sold to or purchased by a retailer that
16 develops prewritten computer software for print technology and uses and sells
17 prewritten computer software access services for print technology;

18 (37) (a) Currency or bullion.

19 (b) As used in this subsection:

20 1. "Bullion":

21 a. Means bars, ingots, or coins, which are:

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

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

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

- 1 a foreign nation; and
- 2 b. Does not include medallions or coins that are incorporated into a
- 3 pendant or other jewelry; and
- 4 2. "Currency":
- 5 a. Means a coin or currency made of gold, silver, platinum,
- 6 palladium, or other metal or paper money that is or has been used
- 7 as legal tender and is sold based on its value as a collectible item
- 8 rather than the value as a medium of exchange; and
- 9 b. Does not include a coin or currency that has been incorporated into
- 10 jewelry; ~~and~~

11 (38) Medicinal cannabis as defined in KRS 218B.010 when sold, used, stored, or

12 consumed in accordance with KRS Chapter 218B;

13 **(39) (a) 1. Baby bottles, including both nipples and liners;**

14 **2. Baby wipes;**

15 **3. Breast pumps;**

16 **4. Breast pump collection and storage supplies;**

17 **5. Breast pump kits;**

18 **6. Children's diapers, including disposable children's diapers;**

19 **7. Diapers, including disposable diapers;**

20 **8. Incontinence products; and**

21 **9. Menstrual discharge collection devices.**

22 **(b) The exemptions provided in paragraph (a) of this subsection apply to items**

23 **sold or purchased on or after July 1, 2025, but before July 1, 2029.**

24 **(c) On or before September 1, 2026, and on or before each September 1**

25 **thereafter as long as the exemptions under this subsection apply, the**

26 **department shall report to the Interim Joint Committee on Appropriations**

27 **and Revenue the total amount of the exemptions that have been claimed for**

1 *the immediately preceding fiscal year and the total cumulative amount of*
2 *the exemptions claimed.*

3 ➔Section 3. KRS 131.190 is amended to read as follows:

4 (1) No present or former commissioner or employee of the department, present or
5 former member of a county board of assessment appeals, present or former property
6 valuation administrator or employee, present or former secretary or employee of the
7 Finance and Administration Cabinet, former secretary or employee of the Revenue
8 Cabinet, or any other person, shall intentionally and without authorization inspect
9 or divulge any information acquired by him or her of the affairs of any person, or
10 information regarding the tax schedules, returns, or reports required to be filed with
11 the department or other proper officer, or any information produced by a hearing or
12 investigation, insofar as the information may have to do with the affairs of the
13 person's business.

14 (2) The prohibition established by subsection (1) of this section shall not extend to:
15 (a) Information required in prosecutions for making false reports or returns of
16 property for taxation, or any other infraction of the tax laws;
17 (b) Any matter properly entered upon any assessment record, or in any way made
18 a matter of public record;
19 (c) Furnishing any taxpayer or his or her properly authorized agent with
20 information respecting his or her own return;
21 (d) Testimony provided by the commissioner or any employee of the department
22 in any court, or the introduction as evidence of returns or reports filed with the
23 department, in an action for violation of state or federal tax laws or in any
24 action challenging state or federal tax laws;
25 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or
26 energy resources assessed under KRS 132.820, or owners of surface land
27 under which the unmined minerals lie, factual information about the owner's

1 property derived from third-party returns filed for that owner's property, under
2 the provisions of KRS 132.820, that is used to determine the owner's
3 assessment. This information shall be provided to the owner on a confidential
4 basis, and the owner shall be subject to the penalties provided in KRS
5 131.990(2). The third-party filer shall be given prior notice of any disclosure
6 of information to the owner that was provided by the third-party filer;

7 (f) Providing to a third-party purchaser pursuant to an order entered in a
8 foreclosure action filed in a court of competent jurisdiction, factual
9 information related to the owner or lessee of coal, oil, gas reserves, or any
10 other mineral resources assessed under KRS 132.820. The department may
11 promulgate an administrative regulation establishing a fee schedule for the
12 provision of the information described in this paragraph. Any fee imposed
13 shall not exceed the greater of the actual cost of providing the information or
14 ten dollars (\$10);

15 (g) Providing information to a licensing agency, the Transportation Cabinet, or
16 the Kentucky Supreme Court under KRS 131.1817;

17 (h) Statistics of gasoline and special fuels gallonage reported to the department
18 under KRS 138.210 to 138.448;

19 (i) Providing any utility gross receipts license tax return information that is
20 necessary to administer the provisions of KRS 160.613 to 160.617 to
21 applicable school districts on a confidential basis;

22 (j) Providing documents, data, or other information to a third party pursuant to an
23 order issued by a court of competent jurisdiction;

24 (k) Publishing administrative writings on its official website in accordance with
25 KRS 131.020(1)(b); or

26 (l) Providing information to the Legislative Research Commission under:

27 1. KRS 139.519 for purposes of the sales and use tax refund on building

- 1 materials used for disaster recovery;
- 2 2. KRS 141.436 for purposes of the energy efficiency products credits;
- 3 3. KRS 141.437 for purposes of the ENERGY STAR home and the
- 4 ENERGY STAR manufactured home credits;
- 5 4. KRS 141.383 for purposes of the film industry incentives;
- 6 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization
- 7 credit~~{tax credits}~~ and the job assessment fees;
- 8 6. KRS 141.068 for purposes of the Kentucky investment fund;
- 9 7. KRS 141.396 for purposes of the angel investor ~~{tax}~~ credit;
- 10 8. KRS 141.389 for purposes of the distilled spirits credit;
- 11 9. KRS 141.408 for purposes of the inventory credit;
- 12 10. KRS 141.390 for purposes of the recycling and composting
- 13 credits~~{credit}~~;
- 14 11. KRS 141.3841 for purposes of the selling farmer ~~{tax}~~ credit;
- 15 12. KRS 141.4231 for purposes of the renewable chemical production ~~{tax}~~
- 16 ~~}~~ credit;
- 17 13. KRS 141.524 for purposes of the Education Opportunity Account
- 18 Program ~~{tax}~~ credit;
- 19 14. KRS 141.398 for purposes of the development area ~~{tax}~~ credit;
- 20 15. KRS 139.516 for ~~{the}~~ purposes of the sales and use tax exemptions
- 21 for~~{exemption on}~~ the commercial mining of cryptocurrency;
- 22 16. KRS 141.419 for purposes of the decontamination ~~{tax}~~ credit;
- 23 17. KRS 141.391 for purposes of the qualified broadband investment ~~{tax}~~
- 24 ~~}~~ credit;~~{and}~~
- 25 18. KRS 139.499 for purposes of the sales and use tax
- 26 exemptions~~{exemption}~~ for a qualified data center project; and
- 27 19. Subsection (39) of Section 2 of this Act for purposes of the sales and

1 use tax exemptions listed in that subsection.

2 (3) The commissioner shall make available any information for official use only and on
3 a confidential basis to the proper officer, agency, board or commission of this state,
4 any Kentucky county, any Kentucky city, any other state, or the federal
5 government, under reciprocal agreements whereby the department shall receive
6 similar or useful information in return.

7 (4) Access to and inspection of information received from the Internal Revenue Service
8 is for department use only, and is restricted to tax administration purposes.
9 Information received from the Internal Revenue Service shall not be made available
10 to any other agency of state government, or any county, city, or other state, and
11 shall not be inspected intentionally and without authorization by any present
12 secretary or employee of the Finance and Administration Cabinet, commissioner or
13 employee of the department, or any other person.

14 (5) Statistics of crude oil as reported to the department under the crude oil excise tax
15 requirements of KRS Chapter 137 and statistics of natural gas production as
16 reported to the department under the natural resources severance tax requirements
17 of KRS Chapter 143A may be made public by the department by release to the
18 Energy and Environment Cabinet, Department for Natural Resources.

19 (6) Notwithstanding any provision of law to the contrary, beginning with mine-map
20 submissions for the 1989 tax year, the department may make public or divulge only
21 those portions of mine maps submitted by taxpayers to the department pursuant to
22 KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-
23 out parcel areas. These electronic maps shall not be relied upon to determine actual
24 boundaries of mined-out parcel areas. Property boundaries contained in mine maps
25 required under KRS Chapters 350 and 352 shall not be construed to constitute land
26 surveying or boundary surveys as defined by KRS 322.010 and any administrative
27 regulations promulgated thereto.