

1 AN ACT relating to an exemption from sales and use tax for certain nonprofit  
2 institutions.

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

4 ➔Section 1. KRS 139.495 is amended to read as follows:

5 (1) **As used in this section, "resident nonprofit educational, charitable, or religious**  
6 **institution" means**~~[The taxes imposed by this chapter shall apply to]:~~

7 (a) A resident~~[,]~~ nonprofit educational, charitable, or religious **institution that**  
8 **has**~~[institutions which have]~~ qualified for exemption from income taxation  
9 under Section 501(c)(3) of the Internal Revenue Code; ~~or~~and

10 (b) Any resident, single member limited liability company that is:

11 1. Wholly owned and controlled by a resident or nonresident, nonprofit  
12 educational, charitable, or religious institution which has qualified for  
13 exemption from income taxation under Section 501(c)(3) of the Internal  
14 Revenue Code; and

15 2. Disregarded as an entity separate from the resident or nonresident,  
16 nonprofit educational, charitable, or religious institution for federal  
17 income tax purposes pursuant to 26 C.F.R. sec. 301.7701-2~~;~~

18 ~~as provided in this section].~~

19 (2) (a) **For resident nonprofit educational, charitable, or religious institutions,**  
20 **except as provided in paragraph (b) of this subsection, the taxes imposed by**  
21 **this chapter do**~~[Tax does]~~ not apply to:

22 1. **Purchases**~~[Sales]~~ of tangible personal property, digital property, or  
23 services **made by**~~[to]~~ these institutions~~[or limited liability companies~~  
24 ~~described in subsection (1) of this section]~~, provided the tangible  
25 personal property, digital property, or service is to be used solely in this  
26 state within the educational, charitable, or religious function; and

27 2. **Sales of tangible personal property, digital property, or services by**

1                    ~~*these institutions*~~ [~~Sales of food to students in school cafeterias or~~  
2                    ~~lunchrooms;~~  
3                    ~~3. Sales by school bookstores of textbooks, workbooks, and other course~~  
4                    ~~materials;~~  
5                    ~~4. Sales by nonprofit, school sponsored clubs and organizations, provided~~  
6                    ~~such sales do not include tickets for athletic events;~~  
7                    ~~5. Sales of admissions, including the sales of admissions to a golf course~~  
8                    ~~when the admission is the result of a fundraising event, by nonprofit~~  
9                    ~~educational, charitable, or religious institutions described in subsection~~  
10                    ~~(1) of this section. All other sales of admissions to a golf course by these~~  
11                    ~~institutions are not exempt from tax under this section; or~~  
12                    ~~6. a. Fundraising event sales made by nonprofit educational, charitable,~~  
13                    ~~or religious institutions and limited liability companies described~~  
14                    ~~in subsection (1) of this section.~~  
15                    ~~b. For the purposes of this subparagraph, "fundraising event sales"~~  
16                    ~~does not include sales related to the operation of a retail business,~~  
17                    ~~including but not limited to thrift stores, bookstores, surplus~~  
18                    ~~property auctions, recycle and reuse stores, or any ongoing~~  
19                    ~~operations in competition with for profit retailers].~~

20                    (b) The exemptions provided in [~~subparagraphs 5. and 6. of paragraph (a) of ]this  
21                    subsection shall not apply to sales;~~

22                    1.    Generated by or arising at a tourism development project approved  
23                    under KRS 148.851 to 148.860; or

24                    2.    *Generated by a resident nonprofit educational, charitable, or religious*  
25                    *institution that qualifies for a refund of a portion of the tax collected*  
26                    *on its sales of donated goods as provided in subsection (3) of this*  
27                    *section.*

- 1 (3) *A resident nonprofit educational, charitable, or religious*~~[An]~~ institution shall be  
2 entitled to a refund equal to twenty-five percent (25%) of the tax collected on its  
3 sale of donated goods if the refund is used exclusively as reimbursement for capital  
4 construction costs of additional retail locations in this state, provided the institution:
- 5 (a) Routinely sells donated items;
  - 6 (b) Provides job training and employment to individuals with workplace  
7 disadvantages and disabilities;
  - 8 (c) Spends at least seventy-five percent (75%) of its annual revenue on job  
9 training, job placement, or other related community services;
  - 10 (d) Submits a refund application to the department within sixty (60) days after the  
11 new retail location opens for business; and
  - 12 (e) Provides records of capital construction costs for the new retail location and  
13 any other information the department deems necessary to process the refund.

14 The maximum refund allowed for any location shall not exceed one million dollars  
15 (\$1,000,000). As used in this subsection, "capital construction cost" means the cost  
16 of construction of any new facilities or the purchase and renovation of any existing  
17 facilities, but does not include the cost of real property other than real property  
18 designated as a brownfield site as defined in KRS 65.680(4).

- 19 (4) Notwithstanding any other provision of law to the contrary, refunds under  
20 subsection (3) of this section shall be made directly to the institution. Interest shall  
21 not be allowed or paid on the refund. The department may examine any refund  
22 within four (4) years from the date the refund application is received. Any  
23 overpayment shall be subject to the interest provisions of KRS 131.183 and the  
24 penalty provisions of KRS 131.180.

25 ~~[(5) All other sales made by nonprofit educational, charitable, or religious institutions or  
26 limited liability companies described in subsection (1) of this section are taxable  
27 and the tax may be passed on to the purchaser as provided in KRS 139.210.]~~