

1 AN ACT implementing the federal education opportunity program in Kentucky.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 14 IS CREATED TO  
4 READ AS FOLLOWS:

5 (1) Pursuant to 26 U.S.C. sec. 25F(g):

6 (a) The General Assembly hereby elects that in each calendar year the  
7 Commonwealth of Kentucky shall:

8 1. Participate in the qualified elementary and secondary education  
9 scholarship federal tax credit established under 26 U.S.C. sec. 25F, or  
10 any successor program, for individuals who make qualifying  
11 contributions to scholarship granting organizations; and

12 2. Identify scholarship granting organizations in the state;

13 (b) The Secretary of State is hereby designated under Kentucky law as the sole  
14 official authorized to:

15 1. Report the state's election to participate in the qualified elementary  
16 and secondary education scholarship federal tax credit under 26  
17 U.S.C. sec. 25F; and

18 2. Submit a list described in 26 U.S.C. sec. 25F(g) and perform other  
19 functions necessary to implement the General Assembly's election  
20 under paragraph (a) of this subsection; and

21 (c) The Secretary of State shall notify the United States Secretary of the  
22 Treasury of the Commonwealth's participation in the qualified elementary  
23 and secondary education scholarship federal tax credit and submit the list  
24 established by the Secretary of State by January 1 of each year.

25 (2) The Secretary of State shall publish the associated administrative regulations and  
26 other applicable guidance issued by the United States Secretary of the Treasury  
27 or the Internal Revenue Service on the Secretary of State's website.

1 (3) The Secretary of State may promulgate administrative regulations in accordance  
2 with KRS Chapter 13A necessary to carry out this section.

3 (4) The Secretary of State may collect a fee from scholarship granting organizations  
4 and accept private contributions to pay the necessary costs of administration of  
5 this section. All amounts received under this subsection shall be deposited in a  
6 restricted fund account, not commingled, and shall be used solely to administer  
7 this section.

8 (5) Any immunity under the Eleventh Amendment to the Constitution of the United  
9 States is waived under this section.

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

11 In the case of taxpayers other than corporations:

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

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

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

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

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

27 (e) Exclude Social Security and railroad retirement benefits subject to federal

1 income tax;

2 (f) Exclude any money received because of a settlement or judgment in a lawsuit  
3 brought against a manufacturer or distributor of "Agent Orange" for damages  
4 resulting from exposure to Agent Orange by a member or veteran of the  
5 Armed Forces of the United States or any dependent of such person who  
6 served in Vietnam;

7 (g) 1. a. For taxable years beginning after December 31, 2005, but before  
8 January 1, 2018, exclude up to forty-one thousand one hundred ten  
9 dollars (\$41,110) of total distributions from pension plans, annuity  
10 contracts, profit-sharing plans, retirement plans, or employee  
11 savings plans; and

12 b. For taxable years beginning on or after January 1, 2018, exclude  
13 up to thirty-one thousand one hundred ten dollars (\$31,110) of  
14 total distributions from pension plans, annuity contracts, profit-  
15 sharing plans, retirement plans, or employee savings plans.

16 2. As used in this paragraph:

17 a. "Annuity contract" has the same meaning as set forth in Section  
18 1035 of the Internal Revenue Code;

19 b. "Distributions" includes but is not limited to any lump-sum  
20 distribution from pension or profit-sharing plans qualifying for the  
21 income tax averaging provisions of Section 402 of the Internal  
22 Revenue Code; any distribution from an individual retirement  
23 account as defined in Section 408 of the Internal Revenue Code;  
24 and any disability pension distribution; and

25 c. "Pension plans, profit-sharing plans, retirement plans, or employee  
26 savings plans" means any trust or other entity created or organized  
27 under a written retirement plan and forming part of a stock bonus,

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

- 1           2.   For the purposes of this paragraph, "all income from all sources" shall  
2               include all federal and state death benefits payable to the estate or any  
3               beneficiaries;
- 4           (l)   Exclude all military pay received by members of the Armed Forces while on  
5               active duty;
- 6           (m)   1.   Include the amount deducted for depreciation under 26 U.S.C. sec. 167  
7               or 168; and  
8               2.   Exclude the amounts allowed by KRS 141.0101 for depreciation;
- 9           (n)   Include the amount deducted under 26 U.S.C. sec. 199A;
- 10          (o)   Ignore any change in the cost basis of the surviving spouse's share of property  
11               owned by a Kentucky community property trust occurring for federal income  
12               tax purposes as a result of the death of the predeceasing spouse;
- 13          (p)   Allow the same treatment allowed under Pub. L. No. 116-260, secs. 276 and  
14               278, related to the tax treatment of forgiven covered loans, deductions  
15               attributable to those loans, and tax attributes associated with those loans for  
16               taxable years ending on or after March 27, 2020, but before January 1, 2022;  
17               and
- 18          (q)   For taxable years beginning on or after January 1, 2020, but before March 11,  
19               2023, allow the same treatment of restaurant revitalization grants in  
20               accordance with Pub. L. No. 117-2, sec. 9673 and 15 U.S.C. sec. 9009c,  
21               related to the tax treatment of the grants, deductions attributable to those  
22               grants, and tax attributes associated with those grants; and
- 23          (2)   Net income shall be calculated by subtracting from adjusted gross income all the  
24               deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as  
25               modified by KRS 141.0101, except:
- 26               (a)   Any deduction allowed by 26 U.S.C. sec. 164 for taxes;
- 27               (b)   Any deduction allowed by 26 U.S.C. sec. 165 for losses, except wagering

1 losses allowed under Section 165(d) of the Internal Revenue Code;

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

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

4 (e) Any deduction for qualified contributions made to a scholarship granting  
5 organization in accordance with 26 U.S.C. sec. 25F and Section 1 of this  
6 Act;

7 (f) Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous  
8 deduction;

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

13 (h)(g) Any deduction allowed by 26 U.S.C. sec. 151 for personal exemptions  
14 and any other deductions in lieu thereof;

15 (i)(h) Any deduction allowed for amounts paid to any club, organization, or  
16 establishment which has been determined by the courts or an agency  
17 established by the General Assembly and charged with enforcing the civil  
18 rights laws of the Commonwealth, not to afford full and equal membership  
19 and full and equal enjoyment of its goods, services, facilities, privileges,  
20 advantages, or accommodations to any person because of race, color, religion,  
21 national origin, or sex, except nothing shall be construed to deny a deduction  
22 for amounts paid to any religious or denominational club, group, or  
23 establishment or any organization operated solely for charitable or educational  
24 purposes which restricts membership to persons of the same religion or  
25 denomination in order to promote the religious principles for which it is  
26 established and maintained; and

27 (j)(i) A taxpayer may elect to claim the standard deduction allowed by KRS

- 1 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63
- 2 and as modified by this section.