

1 AN ACT relating to an exemption from sales and use tax for religious institutions.

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

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

4 (1) **As used in this section:**

5 **(a) "Educational or charitable institution" means**~~[The taxes imposed by this~~
6 ~~chapter shall apply to]:~~

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

11 ~~2.[(b)]~~ Any resident, single member limited liability company that is:
12 **a.[(1)]** Wholly owned and controlled by a resident or nonresident,
13 nonprofit educational **or**~~[,]~~ charitable~~[, or religious]~~ institution
14 **that**~~[which]~~ has qualified for exemption from income taxation
15 under Section 501(c)(3) of the Internal Revenue Code; and

16 **b.[(2)]** Disregarded as an entity separate from the resident or nonresident,
17 nonprofit educational **or**~~[,]~~ charitable~~[, or religious]~~ institution for
18 federal income tax purposes pursuant to 26 C.F.R. sec. 301.7701-
19 **2; and**

20 **(b) "Religious institution" means:**

21 **1. A resident nonprofit religious institution that has qualified for**
22 **exemption from income taxation under Section 501(c)(3) of the**
23 **Internal Revenue Code; or**

24 **2. Any resident, single member limited liability company that is:**

25 **a. Wholly owned and controlled by a resident or nonresident,**
26 **nonprofit religious institution that has qualified for exemption**
27 **from income taxation under Section 501(c)(3) of the Internal**

1 **Revenue Code; and**

2 **b. Disregarded as an entity separate from the resident or**
3 **nonresident, nonprofit religious institution for federal income**
4 **tax purposes pursuant to 26 C.F.R. sec. 301.7701-2.**

5 ~~{as provided in this section.}~~

6 (2) (a) **For educational or charitable institutions, except as provided in paragraph**
7 **(b) of this subsection, the taxes imposed by this chapter do**~~{Tax does}~~ not
8 apply to **any of the following:**

- 9 1. **Purchases**~~{Sales}~~ of tangible personal property, digital property, or
10 services **made by**~~{to}~~ these institutions~~{ or limited liability companies~~
11 ~~described in subsection (1) of this section}~~, provided the tangible
12 personal property, digital property, or service is to be used solely in this
13 state within the educational **or**~~{, or religious}~~ function;
14 2. Sales of food to students in school cafeterias or lunchrooms;
15 3. Sales by school bookstores of textbooks, workbooks, and other course
16 materials;
17 4. Sales by nonprofit, school sponsored clubs and organizations, provided
18 **the**~~{such}~~ sales do not include tickets for athletic events;
19 5. Sales of admissions, including the sales of admissions to a golf course
20 when the admission is the result of a fundraising event, by~~{ nonprofit}~~
21 educational **or**~~{, or religious}~~ institutions~~{ described in~~
22 ~~subsection (1) of this section}~~. All other sales of admissions to a golf
23 course by these institutions are not exempt from tax under this section;
24 or
25 6. a. Fundraising event sales made by ~~{ nonprofit }~~educational **or**~~{,~~
26 charitable~~{, or religious}~~ institutions~~{ and limited liability~~
27 ~~companies described in subsection (1) of this section}~~.

1 b. As used in~~For the purposes of~~ this subparagraph, "fundraising
2 event sales" does not include sales related to the operation of a
3 retail business, including but not limited to thrift stores,
4 bookstores, surplus property auctions, recycle and reuse stores, or
5 any ongoing operations in competition with for-profit retailers.

6 (b) The exemptions provided in subparagraphs 5. and 6. of paragraph (a) of this
7 subsection shall not apply to sales generated by or arising at a tourism
8 development project approved under KRS 148.851 to 148.860.

9 (3) (a) An educational or charitable~~An~~ institution shall be entitled to a refund
10 equal to twenty-five percent (25%) of the tax collected on its sale of donated
11 goods if the refund is used exclusively as reimbursement for capital
12 construction costs of additional retail locations in this state, provided the
13 institution:

14 1.~~(a)~~ Routinely sells donated items;

15 2.~~(b)~~ Provides job training and employment to individuals with
16 workplace disadvantages and disabilities;

17 3.~~(c)~~ Spends at least seventy-five percent (75%) of its annual revenue
18 on job training, job placement, or other related community services;

19 4.~~(d)~~ Submits a refund application to the department within sixty (60)
20 days after the new retail location opens for business; and

21 5.~~(e)~~ Provides records of capital construction costs for the new retail
22 location and any other information the department deems necessary to
23 process the refund.

24 The maximum refund allowed for any location shall not exceed one million
25 dollars (\$1,000,000).

26 (b) As used in this subsection, "capital construction cost":

27 1. Means the cost of construction of any new facilities or the purchase and

1 renovation of any existing facilities; and ~~[, but]~~

2 2. Does not include the cost of real property other than real property
3 designated as a brownfield site as defined in KRS 65.680(4).

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

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

14 **(6) For religious institutions, the taxes imposed by this chapter do not apply to any of**
15 **the following:**

16 **(a) Sales of tangible personal property, digital property, or services made by a**
17 **religious institution; or**

18 **(b) Purchases of tangible personal property, digital property, or services made**
19 **by a religious institution, provided the tangible personal property, digital**
20 **property, or service is to be used solely in this state within the religious**
21 **function.**