

1 AN ACT relating to a tax deduction for theft losses.

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

3 ➔Section 1. KRS 141.019 is amended to read as follows:

4 In the case of taxpayers other than corporations:

- 5 (1) Adjusted gross income shall be calculated by subtracting from the gross income of  
6 those taxpayers the deductions allowed individuals by Section 62 of the Internal  
7 Revenue Code and adjusting as follows:
- 8 (a) Exclude income that is exempt from state taxation by the Kentucky  
9 Constitution and the Constitution and statutory laws of the United States;
- 10 (b) Exclude income from supplemental annuities provided by the Railroad  
11 Retirement Act of 1937 as amended and which are subject to federal income  
12 tax by Pub. L. No. 89-699;
- 13 (c) Include interest income derived from obligations of sister states and political  
14 subdivisions thereof;
- 15 (d) Exclude employee pension contributions picked up as provided for in KRS  
16 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610,  
17 and 161.540 upon a ruling by the Internal Revenue Service or the federal  
18 courts that these contributions shall not be included as gross income until such  
19 time as the contributions are distributed or made available to the employee;
- 20 (e) Exclude Social Security and railroad retirement benefits subject to federal  
21 income tax;
- 22 (f) Exclude any money received because of a settlement or judgment in a lawsuit  
23 brought against a manufacturer or distributor of "Agent Orange" for damages  
24 resulting from exposure to Agent Orange by a member or veteran of the  
25 Armed Forces of the United States or any dependent of such person who  
26 served in Vietnam;
- 27 (g) 1. a. For taxable years beginning after December 31, 2005, but before

1 January 1, 2018, exclude up to forty-one thousand one hundred ten  
2 dollars (\$41,110) of total distributions from pension plans, annuity  
3 contracts, profit-sharing plans, retirement plans, or employee  
4 savings plans; and

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

9 2. As used in this paragraph:

10 a. "Annuity contract" has the same meaning as set forth in Section  
11 1035 of the Internal Revenue Code;

12 b. "Distributions" includes but is not limited to any lump-sum  
13 distribution from pension or profit-sharing plans qualifying for the  
14 income tax averaging provisions of Section 402 of the Internal  
15 Revenue Code; any distribution from an individual retirement  
16 account as defined in Section 408 of the Internal Revenue Code;  
17 and any disability pension distribution; and

18 c. "Pension plans, profit-sharing plans, retirement plans, or employee  
19 savings plans" means any trust or other entity created or organized  
20 under a written retirement plan and forming part of a stock bonus,  
21 pension, or profit-sharing plan of a public or private employer for  
22 the exclusive benefit of employees or their beneficiaries and  
23 includes plans qualified or unqualified under Section 401 of the  
24 Internal Revenue Code and individual retirement accounts as  
25 defined in Section 408 of the Internal Revenue Code;

26 (h) 1. a. Exclude the portion of the distributive share of a shareholder's net  
27 income from an S corporation subject to the franchise tax imposed

- 1                   under KRS 136.505 or the capital stock tax imposed under KRS  
2                   136.300; and
- 3                   b.   Exclude the portion of the distributive share of a shareholder's net  
4                   income from an S corporation related to a qualified subchapter S  
5                   subsidiary subject to the franchise tax imposed under KRS  
6                   136.505 or the capital stock tax imposed under KRS 136.300.
- 7                   2.   The shareholder's basis of stock held in an S corporation where the S  
8                   corporation or its qualified subchapter S subsidiary is subject to the  
9                   franchise tax imposed under KRS 136.505 or the capital stock tax  
10                  imposed under KRS 136.300 shall be the same as the basis for federal  
11                  income tax purposes;
- 12                  (i)   Exclude income received for services performed as a precinct worker for  
13                  election training or for working at election booths in state, county, and local  
14                  primaries or regular or special elections;
- 15                  (j)   Exclude any capital gains income attributable to property taken by eminent  
16                  domain;
- 17                  (k)   1.   Exclude all income from all sources for members of the Armed Forces  
18                  who are on active duty and who are killed in the line of duty, for the  
19                  year during which the death occurred and the year prior to the year  
20                  during which the death occurred.
- 21                  2.   For the purposes of this paragraph, "all income from all sources" shall  
22                  include all federal and state death benefits payable to the estate or any  
23                  beneficiaries;
- 24                  (l)   Exclude all military pay received by members of the Armed Forces while on  
25                  active duty;
- 26                  (m)   1.   Include the amount deducted for depreciation under 26 U.S.C. sec. 167  
27                  or 168; and

- 1           2.   Exclude the amounts allowed by KRS 141.0101 for depreciation;
- 2           (n)   Include the amount deducted under 26 U.S.C. sec. 199A;
- 3           (o)   Ignore any change in the cost basis of the surviving spouse's share of property
- 4               owned by a Kentucky community property trust occurring for federal income
- 5               tax purposes as a result of the death of the predeceasing spouse;
- 6           (p)   Allow the same treatment allowed under Pub. L. No. 116-260, secs. 276 and
- 7               278, related to the tax treatment of forgiven covered loans, deductions
- 8               attributable to those loans, and tax attributes associated with those loans for
- 9               taxable years ending on or after March 27, 2020, but before January 1, 2022;
- 10           and
- 11          (q)   For taxable years beginning on or after January 1, 2020, but before March 11,
- 12               2023, allow the same treatment of restaurant revitalization grants in
- 13               accordance with Pub. L. No. 117-2, sec. 9673 and 15 U.S.C. sec. 9009c,
- 14               related to the tax treatment of the grants, deductions attributable to those
- 15               grants, and tax attributes associated with those grants; and
- 16   (2)   Net income shall be calculated by subtracting from adjusted gross income all the
- 17       deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as
- 18       modified by KRS 141.0101, except:
- 19       (a)   Any deduction allowed by 26 U.S.C. sec. 164 for taxes;
- 20       (b)   Any deduction allowed by 26 U.S.C. sec. 165 for losses, except:
- 21           1.   Wagering losses allowed under Section 165(d) of the Internal Revenue
- 22               Code; and
- 23           2.   Theft losses allowed under Section 165(e) of the Internal Revenue
- 24               Code;
- 25       (c)   Any deduction allowed by 26 U.S.C. sec. 213 for medical care expenses;
- 26       (d)   Any deduction allowed by 26 U.S.C. sec. 217 for moving expenses;
- 27       (e)   Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous

1 deduction;

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

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

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

20 (i) A taxpayer may elect to claim the standard deduction allowed by KRS  
21 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63  
22 and as modified by this section.