

1 AN ACT relating to contributions made to a Kentucky Saves account.

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

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

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

2. As used in this paragraph:

- a. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code;
- b. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution; and
- c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;
- a. Exclude the portion of the distributive share of a shareholder's net assets from Section 303(d)(1)(B)(ii)(I) if the shareholder is an individual

under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and

b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 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; ~~and]~~

10 (q) For taxable years beginning on or after January 1, 2020, but before March 11,

11 2023, allow the same treatment of restaurant revitalization grants in

12 accordance with Pub. L. No. 117-2, sec. 9673 and 15 U.S.C. sec. 9009c,

13 related to the tax treatment of the grants, deductions attributable to those

14 grants, and tax attributes associated with those grants; and

15 (r) For taxable years beginning on or after January 1, 2027, but before

16 January 1, 2031, exclude amounts contributed to a Kentucky qualified

17 tuition program under 26 U.S.C. sec. 529 and in accordance with Section 2

18 of this Act; and

19 (2) Net income shall be calculated by subtracting from adjusted gross income all the

20 deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as

21 modified by KRS 141.0101, except:

22 (a) Any deduction allowed by 26 U.S.C. sec. 164 for taxes;

23 (b) Any deduction allowed by 26 U.S.C. sec. 165 for losses, except wagering

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

- 1 (e) Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous
2 deduction;
- 3 (f) Any deduction allowed by the Internal Revenue Code for amounts allowable
4 under KRS 140.090(1)(h) in calculating the value of the distributive shares of
5 the estate of a decedent, unless there is filed with the income return a
6 statement that the deduction has not been claimed under KRS 140.090(1)(h);
- 7 (g) Any deduction allowed by 26 U.S.C. sec. 151 for personal exemptions and
8 any other deductions in lieu thereof;
- 9 (h) Any deduction allowed for amounts paid to any club, organization, or
10 establishment which has been determined by the courts or an agency
11 established by the General Assembly and charged with enforcing the civil
12 rights laws of the Commonwealth, not to afford full and equal membership
13 and full and equal enjoyment of its goods, services, facilities, privileges,
14 advantages, or accommodations to any person because of race, color, religion,
15 national origin, or sex, except nothing shall be construed to deny a deduction
16 for amounts paid to any religious or denominational club, group, or
17 establishment or any organization operated solely for charitable or educational
18 purposes which restricts membership to persons of the same religion or
19 denomination in order to promote the religious principles for which it is
20 established and maintained; and
- 21 (i) A taxpayer may elect to claim the standard deduction allowed by KRS
22 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63
23 and as modified by this section.

24 ➔ SECTION 2. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
25 READ AS FOLLOWS:

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

27 (a) ***"Contribution"*** means the amount contributed to a Kentucky Saves

1 account; and

2 (b) "Kentucky Saves account" means an account within the trust established
3 under KRS 164A.310, to which contributions are made and withdrawn by a
4 beneficiary for a qualified tuition program under Section 529 of the
5 Internal Revenue Code.

6 (2) For taxable years beginning on or after January 1, 2027, but before January 1,
7 2031, a taxpayer making a contribution may claim:

8 (a) An exclusion from gross income, subject to the limitations in subsection (3)
9 of this section; or

10 (b) A refundable credit against the tax imposed by KRS 141.020, and subject to
11 the limitations set forth in subsection (4) of this section.

12 (3) The amount excluded from income shall equal the amount of the contribution
13 made during the taxable year and limited to:

14 (a) One thousand five hundred dollars (\$1,500) per taxpayer; or

15 (b) Three thousand dollars (\$3,000) for married taxpayers filing jointly.

16 (4) (a) The Kentucky Saves credit shall be equal to fifty percent (50%) of the total
17 contributions made during the taxable year, and shall not exceed:

18 1. Two hundred fifty dollars (\$250) for taxpayers with gross income of
19 one hundred seventy-five thousand dollars (\$175,000) or less; or

20 2. Five hundred dollars (\$500) for married taxpayers filing jointly, with a
21 combined income of less than three hundred fifty thousand dollars
22 (\$350,000).

23 (b) Taxpayers earning in excess of the thresholds set forth in paragraph (a) of
24 this subsection shall not be eligible for the refundable credit, but may claim
25 the income exclusion in accordance with subsection (3) of this section.

26 (c) The ordering of the Kentucky Saves credit shall be as provided in Section 3
27 of this Act.

1 (d) A taxpayer claiming an exclusion from gross income in accordance with
2 Section 1 of this Act and subsection (3) of this section shall not also claim
3 credit under this subsection for the same taxable year.

4 (5) By November 1 of each year in which a Kentucky Saves credit or an exclusion is
5 claimed, the department shall report to the Legislative Research Commission for
6 referral to the Interim Joint Committee on Appropriations and Revenue:

7 (a) The number of returns claiming the exclusion and the number of returns
8 claiming the credit;

9 (b) The total amount of the exclusion and the total amount of the credit claimed
10 for each taxable year; and

11 (c) Based on ranges of adjusted gross income of no larger than five thousand
12 dollars (\$5,000) for the taxable year:

13 1. The number of returns filed and the total amount of exclusions; and

14 2. The number of returns filed and the total amount of credits;
15 claimed for each net income range.

16 ➔ Section 3. KRS 141.0205 is amended to read as follows:

17 If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax
18 imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of
19 the credits shall be determined as follows:

20 (1) The nonrefundable business incentive credits against the tax imposed by KRS
21 141.020 shall be taken in the following order:

22 (a) The limited liability entity tax credit permitted by KRS 141.0401;

23 (b) The economic development credits computed under KRS 141.347, 141.381,
24 141.384, 141.3841, 141.400, 141.403, 141.407, 141.415, 154.12-207, and
25 154.12-2088;

26 (c) The qualified farming operation credit permitted by KRS 141.412;

27 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);

- (e) The health insurance credit permitted by KRS 141.062;
- (f) The tax paid to other states credit permitted by KRS 141.070;
- (g) The credit for hiring the unemployed permitted by KRS 141.065;
- (h) The recycling or composting equipment credit permitted by KRS 141.390;
- (i) The ~~tax~~ credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
- (j) The research facilities credit permitted by KRS 141.395;
- (k) The employer High School Equivalency Diploma program incentive credit permitted under KRS 151B.402;
- (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- (n) The clean coal incentive credit permitted by KRS 141.428;
- (o) The ethanol credit permitted by KRS 141.4242;
- (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- (q) The energy efficiency credits permitted by KRS 141.436;
- (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
- (s) The Endow Kentucky credit permitted by KRS 141.438;
- (t) The New Markets Development Program credit permitted by KRS 141.434;
- (u) The distilled spirits credit permitted by KRS 141.389;
- (v) The angel investor credit permitted by KRS 141.396;
- (w) The film industry credit permitted by KRS 141.383 for applications approved on or after April 27, 2018, but before January 1, 2022;
- (x) The inventory credit permitted by KRS 141.408;
- (y) The renewable chemical production credit permitted by KRS 141.4231; and
- (z) The qualified broadband investment ~~tax~~ credit permitted by KRS 141.391;

1 the nonrefundable personal tax credits against the tax imposed by KRS 141.020
2 shall be taken in the following order:

3 (a) The individual credits permitted by KRS 141.020(3);
4 (b) The credit permitted by KRS 141.066;
5 (c) The tuition credit permitted by KRS 141.069;
6 (d) The household and dependent care credit permitted by KRS 141.067;
7 (e) The income gap credit permitted by KRS 141.066; and
8 (f) The Education Opportunity Account Program ~~tax~~ credit permitted by KRS
9 141.522;

10 (3) After the application of the nonrefundable credits provided for in subsection (2) of
11 this section, the refundable credits against the tax imposed by KRS 141.020 shall be
12 taken in the following order:

13 (a) The individual withholding tax credit permitted by KRS 141.350;
14 (b) The individual estimated tax payment credit permitted by KRS 141.305;
15 (c) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and
16 171.397(1)(b);
17 (d) The film industry ~~tax~~ credit permitted by KRS 141.383 for applications
18 approved prior to April 27, 2018, or on or after January 1, 2022;
19 (e) The development area ~~tax~~ credit permitted by KRS 141.398;
20 (f) The decontamination ~~tax~~ credit permitted by KRS 141.419; ~~and~~
21 (g) The pass-through entity tax credit permitted by KRS 141.209; and
22 **(h) The Kentucky Saves credit permitted by Section 2 of this Act;**
23 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the
24 tax imposed by KRS 141.040;
25 (5) The following nonrefundable credits shall be applied against the sum of the tax
26 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)
27 of this section, and the tax imposed by KRS 141.0401 in the following order:

- 1 (a) The economic development credits computed under KRS 141.347, 141.381,
2 141.384, 141.3841, 141.400, 141.403, 141.407, 141.415, 154.12-207, and
3 154.12-2088;
- 4 (b) The qualified farming operation credit permitted by KRS 141.412;
- 5 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 6 (d) The health insurance credit permitted by KRS 141.062;
- 7 (e) The unemployment credit permitted by KRS 141.065;
- 8 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 9 (g) The coal conversion credit permitted by KRS 141.041;
- 10 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods
11 ending prior to January 1, 2008;
- 12 (i) The ~~tax~~ credit for cash contributions to investment funds permitted by KRS
13 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
14 154.20-258;
- 15 (j) The research facilities credit permitted by KRS 141.395;
- 16 (k) The employer High School Equivalency Diploma program incentive credit
17 permitted by KRS 151B.402;
- 18 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 19 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 20 (n) The clean coal incentive credit permitted by KRS 141.428;
- 21 (o) The ethanol credit permitted by KRS 141.4242;
- 22 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 23 (q) The energy efficiency credits permitted by KRS 141.436;
- 24 (r) The ENERGY STAR home or ENERGY STAR manufactured home credit
25 permitted by KRS 141.437;
- 26 (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 27 (t) The railroad expansion credit permitted by KRS 141.386;

(u) The Endow Kentucky credit permitted by KRS 141.438;

(v) The New Markets Development Program credit permitted by KRS 141.434;

(w) The distilled spirits credit permitted by KRS 141.389;

(x) The film industry credit permitted by KRS 141.383 for applications approved on or after April 27, 2018, but before January 1, 2022;

(y) The inventory credit permitted by KRS 141.408;

(z) The renewable chemical production ~~tax~~ credit permitted by KRS 141.4231;

(aa) The Education Opportunity Account Program ~~tax~~ credit permitted by KRS 141.522; and

(ab) The qualified broadband investment ~~tax~~ credit permitted by KRS 141.391; and

(6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable credits shall be taken in the following order:

(a) The corporation estimated tax payment credit permitted by KRS 141.044;

(b) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and 171.397(1)(b);

(c) The film industry ~~tax~~ credit permitted by KRS 141.383 for applications approved prior to April 27, 2018, or on or after January 1, 2022;

(d) The decontamination ~~tax~~ credit permitted by KRS 141.419; and

(e) The pass-through entity tax credit permitted by KRS 141.209.

➔ Section 4. KRS 131.190 is amended to read as follows:

(1) No present or former commissioner or employee of the department, present or former member of a county board of assessment appeals, present or former property valuation administrator or employee, present or former secretary or employee of the Finance and Administration Cabinet, former secretary or employee of the Revenue Cabinet, or any other person, shall intentionally and without authorization inspect or divulge any information acquired by him or her of the affairs of any person, or

1 information regarding the tax schedules, returns, or reports required to be filed with
2 the department or other proper officer, or any information produced by a hearing or
3 investigation, insofar as the information may have to do with the affairs of the
4 person's business.

5 (2) The prohibition established by subsection (1) of this section shall not extend to:

6 (a) Information required in prosecutions for making false reports or returns of
7 property for taxation, or any other infraction of the tax laws;

8 (b) Any matter properly entered upon any assessment record, or in any way made
9 a matter of public record;

10 (c) Furnishing any taxpayer or his or her properly authorized agent with
11 information respecting his or her own return;

12 (d) Testimony provided by the commissioner or any employee of the department
13 in any court, or the introduction as evidence of returns or reports filed with the
14 department, in an action for violation of state or federal tax laws or in any
15 action challenging state or federal tax laws;

16 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or
17 energy resources assessed under KRS 132.820, or owners of surface land
18 under which the unmined minerals lie, factual information about the owner's
19 property derived from third-party returns filed for that owner's property, under
20 the provisions of KRS 132.820, that is used to determine the owner's
21 assessment. This information shall be provided to the owner on a confidential
22 basis, and the owner shall be subject to the penalties provided in KRS
23 131.990(2). The third-party filer shall be given prior notice of any disclosure
24 of information to the owner that was provided by the third-party filer;

25 (f) Providing to a third-party purchaser pursuant to an order entered in a
26 foreclosure action filed in a court of competent jurisdiction, factual
27 information related to the owner or lessee of coal, oil, gas reserves, or any

1 other mineral resources assessed under KRS 132.820. The department may
2 promulgate an administrative regulation establishing a fee schedule for the
3 provision of the information described in this paragraph. Any fee imposed
4 shall not exceed the greater of the actual cost of providing the information or
5 ten dollars (\$10);

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

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

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

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

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

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

18 1. KRS 139.519 for purposes of the sales and use tax refund on building
19 materials used for disaster recovery;

20 2. KRS 141.436 for purposes of the energy efficiency products credits;

21 3. KRS 141.437 for purposes of the ENERGY STAR home and the
22 ENERGY STAR manufactured home credits;

23 4. KRS 141.383 for purposes of the film industry incentives;

24 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization
25 credit and the job assessment fees;

26 6. KRS 141.068 for purposes of the Kentucky investment fund;

27 7. KRS 141.396 for purposes of the angel investor credit;

- 1 8. KRS 141.389 for purposes of the distilled spirits credit;
- 2 9. KRS 141.408 for purposes of the inventory credit;
- 3 10. KRS 141.390 for purposes of the recycling and composting credits;
- 4 11. KRS 141.3841 for purposes of the selling farmer credit;
- 5 12. KRS 141.4231 for purposes of the renewable chemical production
- 6 credit;
- 7 13. KRS 141.524 for purposes of the Education Opportunity Account
- 8 Program credit;
- 9 14. KRS 141.398 for purposes of the development area credit;
- 10 15. KRS 139.516 for purposes of the sales and use tax exemptions for the
- 11 commercial mining of cryptocurrency;
- 12 16. KRS 141.419 for purposes of the decontamination credit;
- 13 17. KRS 141.391 for purposes of the qualified broadband investment credit;
- 14 18. KRS 139.499 for purposes of the sales and use tax exemptions for a
- 15 qualified data center project; ~~and~~
- 16 19. KRS 139.5325 for purposes of the sales and use tax incentive for a
- 17 qualifying attraction; and

18 **20. Section 2 of this Act for purposes of the Kentucky Saves exclusion and**
19 **the Kentucky Saves credit.**

- 20 (3) The commissioner shall make available any information for official use only and on
- 21 a confidential basis to the proper officer, agency, board or commission of this state,
- 22 any Kentucky county, any Kentucky city, any other state, or the federal
- 23 government, under reciprocal agreements whereby the department shall receive
- 24 similar or useful information in return.
- 25 (4) Access to and inspection of information received from the Internal Revenue Service
- 26 is for department use only, and is restricted to tax administration purposes.
- 27 Information received from the Internal Revenue Service shall not be made available

1 to any other agency of state government, or any county, city, or other state, and
2 shall not be inspected intentionally and without authorization by any present
3 secretary or employee of the Finance and Administration Cabinet, commissioner or
4 employee of the department, or any other person.

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

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