

1 AN ACT relating to extended warranty services.

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

3 ➔Section 1. KRS 139.470 is amended to read as follows:

4 There are excluded from the computation of the amount of taxes imposed by this chapter:

5 (1) Gross receipts from the sale of, and the storage, use, or other consumption in this
6 state of, tangible personal property or digital property which this state is prohibited
7 from taxing under the Constitution or laws of the United States, or under the
8 Constitution of this state;

9 (2) Gross receipts from sales of, and the storage, use, or other consumption in this state
10 of:

11 (a) Nonreturnable and returnable containers when sold without the contents to
12 persons who place the contents in the container and sell the contents together
13 with the container; and

14 (b) Returnable containers when sold with the contents in connection with a retail
15 sale of the contents or when resold for refilling;

16 As used in this section the term "returnable containers" means containers of a kind
17 customarily returned by the buyer of the contents for reuse. All other containers are
18 "nonreturnable containers";

19 (3) Gross receipts from occasional sales of tangible personal property or digital
20 property and the storage, use, or other consumption in this state of tangible personal
21 property or digital property, the transfer of which to the purchaser is an occasional
22 sale;

23 (4) Gross receipts from sales of tangible personal property to a common carrier,
24 shipped by the retailer via the purchasing carrier under a bill of lading, whether the
25 freight is paid in advance or the shipment is made freight charges collect, to a point
26 outside this state and the property is actually transported to the out-of-state
27 destination for use by the carrier in the conduct of its business as a common carrier;

- 1 (5) Gross receipts from sales of tangible personal property sold through coin-operated
2 bulk vending machines, if the sale amounts to fifty cents (\$0.50) or less, if the
3 retailer is primarily engaged in making the sales and maintains records satisfactory
4 to the department. As used in this subsection, "bulk vending machine" means a
5 vending machine containing unsorted merchandise which, upon insertion of a coin,
6 dispenses the same in approximately equal portions, at random and without
7 selection by the customer;
- 8 (6) Gross receipts from sales to any cabinet, department, bureau, commission, board, or
9 other statutory or constitutional agency of the state and gross receipts from sales to
10 counties, cities, or special districts as defined in KRS 65.005. This exemption shall
11 apply only to purchases of tangible personal property, digital property, or services
12 for use solely in the government function. A purchaser not qualifying as a
13 governmental agency or unit shall not be entitled to the exemption even though the
14 purchaser may be the recipient of public funds or grants;
- 15 (7) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky
16 residents for use in heating, water heating, cooking, lighting, and other
17 residential uses. As used in this subsection, "fuel" shall include but not be
18 limited to natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood.
19 Determinations of eligibility for the exemption shall be made by the
20 department;
- 21 (b) In making the determinations of eligibility, the department shall exempt from
22 taxation all gross receipts derived from sales:
- 23 1. Classified as "residential" by a utility company as defined by applicable
24 tariffs filed with and accepted by the Public Service Commission;
 - 25 2. Classified as "residential" by a municipally owned electric distributor
26 which purchases its power at wholesale from the Tennessee Valley
27 Authority;

1 3. Classified as "residential" by the governing body of a municipally owned
2 electric distributor which does not purchase its power from the
3 Tennessee Valley Authority, if the "residential" classification is
4 reasonably consistent with the definitions of "residential" contained in
5 tariff filings accepted and approved by the Public Service Commission
6 with respect to utilities which are subject to Public Service Commission
7 regulation.

8 If the service is classified as residential, use other than for "residential"
9 purposes by the customer shall not negate the exemption;

10 (c) The exemption shall not apply if charges for sewer service, water, and fuel are
11 billed to an owner or operator of a multi-unit residential rental facility or
12 mobile home and recreational vehicle park other than residential
13 classification; and

14 (d) The exemption shall apply also to residential property which may be held by
15 legal or equitable title, by the entireties, jointly, in common, as a
16 condominium, or indirectly by the stock ownership or membership
17 representing the owner's or member's proprietary interest in a corporation
18 owning a fee or a leasehold initially in excess of ninety-eight (98) years;

19 (8) Gross receipts from sales to an out-of-state agency, organization, or institution
20 exempt from sales and use tax in its state of residence when that agency,
21 organization, or institution gives proof of its tax-exempt status to the retailer and the
22 retailer maintains a file of the proof;

23 (9) (a) Gross receipts derived from the sale of, the following tangible personal
24 property to a manufacturer or industrial processor if the property is to be
25 directly used in the manufacturing or industrial processing process of tangible
26 personal property at a plant facility and which will be for sale:

27 1. Materials which enter into and become an ingredient or component part

- 1 of the manufactured product;
- 2 2. Other tangible personal property which is directly used in the
- 3 manufacturing or industrial processing process, if the property has a
- 4 useful life of less than one (1) year. Specifically these items are
- 5 categorized as follows:
- 6 a. Materials. This refers to the raw materials which become an
- 7 ingredient or component part of supplies or industrial tools exempt
- 8 under subdivisions b. and c. below;
- 9 b. Supplies. This category includes supplies such as lubricating and
- 10 compounding oils, grease, machine waste, abrasives, chemicals,
- 11 solvents, fluxes, anodes, filtering materials, fire brick, catalysts,
- 12 dyes, refrigerants, and explosives. The supplies indicated above
- 13 need not come in direct contact with a manufactured product to be
- 14 exempt. "Supplies" does not include repair, replacement, or spare
- 15 parts of any kind; and
- 16 c. Industrial tools. This group is limited to hand tools such as jigs,
- 17 dies, drills, cutters, rolls, reamers, chucks, saws, and spray guns
- 18 and to tools attached to a machine such as molds, grinding balls,
- 19 grinding wheels, dies, bits, and cutting blades. Normally, for
- 20 industrial tools to be considered directly used in the manufacturing
- 21 or industrial processing process, they shall come into direct contact
- 22 with the product being manufactured or processed; and
- 23 3. Materials and supplies that are not reusable in the same manufacturing
- 24 or industrial processing process at the completion of a single
- 25 manufacturing or processing cycle. A single manufacturing cycle shall
- 26 be considered to be the period elapsing from the time the raw materials
- 27 enter into the manufacturing process until the finished product emerges

1 at the end of the manufacturing process.

2 (b) The property described in paragraph (a) of this subsection shall be regarded as
3 having been purchased for resale.

4 (c) For purposes of this subsection, a manufacturer or industrial processor
5 includes an individual or business entity that performs only part of the
6 manufacturing or industrial processing activity, and the person or business
7 entity need not take title to tangible personal property that is incorporated into,
8 or becomes the product of, the activity.

9 (d) The exemption provided in this subsection does not include repair,
10 replacement, or spare parts;

11 (10) Any water use fee paid or passed through to the Kentucky River Authority by
12 facilities using water from the Kentucky River basin to the Kentucky River
13 Authority in accordance with KRS 151.700 to 151.730 and administrative
14 regulations promulgated by the authority;

15 (11) Gross receipts from the sale of newspaper inserts or catalogs purchased for storage,
16 use, or other consumption outside this state and delivered by the retailer's own
17 vehicle to a location outside this state, or delivered to the United States Postal
18 Service, a common carrier, or a contract carrier for delivery outside this state,
19 regardless of whether the carrier is selected by the purchaser or retailer or an agent
20 or representative of the purchaser or retailer, or whether the F.O.B. is retailer's
21 shipping point or purchaser's destination.

22 (a) As used in this subsection:

23 1. "Catalogs" means tangible personal property that is printed to the special
24 order of the purchaser and composed substantially of information
25 regarding goods and services offered for sale; and

26 2. "Newspaper inserts" means printed materials that are placed in or
27 distributed with a newspaper of general circulation.

- 1 (b) The retailer shall be responsible for establishing that delivery was made to a
2 non-Kentucky location through shipping documents or other credible evidence
3 as determined by the department;
- 4 (12) Gross receipts from the sale of water used in the raising of equine as a business;
- 5 (13) Gross receipts from the sale of metal retail fixtures manufactured in this state and
6 purchased for storage, use, or other consumption outside this state and delivered by
7 the retailer's own vehicle to a location outside this state, or delivered to the United
8 States Postal Service, a common carrier, or a contract carrier for delivery outside
9 this state, regardless of whether the carrier is selected by the purchaser or retailer or
10 an agent or representative of the purchaser or retailer, or whether the F.O.B. is the
11 retailer's shipping point or the purchaser's destination.
- 12 (a) As used in this subsection, "metal retail fixtures" means check stands and
13 belted and nonbelted checkout counters, whether made in bulk or pursuant to
14 specific purchaser specifications, that are to be used directly by the purchaser
15 or to be distributed by the purchaser.
- 16 (b) The retailer shall be responsible for establishing that delivery was made to a
17 non-Kentucky location through shipping documents or other credible evidence
18 as determined by the department;
- 19 (14) Gross receipts from the sale of unenriched or enriched uranium purchased for
20 ultimate storage, use, or other consumption outside this state and delivered to a
21 common carrier in this state for delivery outside this state, regardless of whether the
22 carrier is selected by the purchaser or retailer, or is an agent or representative of the
23 purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or
24 purchaser's destination;
- 25 (15) Amounts received from a tobacco buydown. As used in this subsection, "buydown"
26 means an agreement whereby an amount, whether paid in money, credit, or
27 otherwise, is received by a retailer from a manufacturer or wholesaler based upon

- 1 the quantity and unit price of tobacco products sold at retail that requires the retailer
2 to reduce the selling price of the product to the purchaser without the use of a
3 manufacturer's or wholesaler's coupon or redemption certificate;
- 4 (16) Gross receipts from the sale of tangible personal property or digital property
5 returned by a purchaser when the full sales price is refunded either in cash or credit.
6 This exclusion shall not apply if the purchaser, in order to obtain the refund, is
7 required to purchase other tangible personal property or digital property at a price
8 greater than the amount charged for the property that is returned;
- 9 (17) Gross receipts from the sales of gasoline and special fuels subject to tax under KRS
10 Chapter 138;
- 11 (18) The amount of any tax imposed by the United States upon or with respect to retail
12 sales, whether imposed on the retailer or the consumer, not including any
13 manufacturer's excise or import duty;
- 14 (19) Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which
15 is:
- 16 (a) Sold to a Kentucky resident, registered for use on the public highways, and
17 upon which any applicable tax levied by KRS 138.460 has been paid; or
- 18 (b) Sold to a nonresident of Kentucky if the nonresident registers the motor
19 vehicle in a state that:
- 20 1. Allows residents of Kentucky to purchase motor vehicles without
21 payment of that state's sales tax at the time of sale; or
- 22 2. Allows residents of Kentucky to remove the vehicle from that state
23 within a specific period for subsequent registration and use in Kentucky
24 without payment of that state's sales tax;
- 25 (20) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and
26 trailer as defined in KRS 189.010(17);
- 27 (21) Gross receipts from the first fifty thousand dollars (\$50,000) in sales of admissions

1 to county fairs held in Kentucky in any calendar year by a nonprofit county fair
2 board;

3 (22) Gross receipts from the collection of:

4 (a) Any fee or charge levied by a local government pursuant to KRS 65.760;

5 (b) The charge imposed by KRS 65.7629(3);

6 (c) The fee imposed by KRS 65.7634; and

7 (d) The service charge imposed by KRS 65.7636;~~and~~

8 (23) Gross receipts derived from charges for labor or services to apply, install, repair, or
9 maintain tangible personal property directly used in manufacturing or industrial
10 processing process, and that is not otherwise exempt under subsection (9) of this
11 section or KRS 139.480(10), if the charges for labor or services are separately stated
12 on the invoice, bill of sale, or similar document given to purchaser; **and**

13 **(24) Gross receipts from the sale of extended warranty services for tangible personal**
14 **property purchased and used by a service provider to deliver communications**
15 **services as defined in KRS 136.602 or broadband as defined in KRS 278.5461.**

16 **(a) This exemption shall apply to sales or purchases made on or after July 1,**
17 **2019, and before July 1, 2023; and**

18 **(b) On or before October 1, 2019, and on or before each October 1 thereafter as**
19 **long as the exemption applies, the department shall report to the Interim**
20 **Joint Committee on Appropriations and Revenue the total amount of tax**
21 **exemption that has been claimed for the immediately preceding fiscal year**
22 **and the total cumulative amount of the exemption claimed.**

23 ➔Section 2. KRS 131.190 is amended to read as follows:

24 (1) No present or former commissioner or employee of the department, present or
25 former member of a county board of assessment appeals, present or former property
26 valuation administrator or employee, present or former secretary or employee of the
27 Finance and Administration Cabinet, former secretary or employee of the Revenue

1 Cabinet, or any other person, shall intentionally and without authorization inspect or
2 divulge any information acquired by him of the affairs of any person, or information
3 regarding the tax schedules, returns, or reports required to be filed with the
4 department or other proper officer, or any information produced by a hearing or
5 investigation, insofar as the information may have to do with the affairs of the
6 person's business.

- 7 (2) The prohibition established by subsection (1) of this section shall not extend to:
- 8 (a) Information required in prosecutions for making false reports or returns of
9 property for taxation, or any other infraction of the tax laws;
 - 10 (b) Any matter properly entered upon any assessment record, or in any way made
11 a matter of public record;
 - 12 (c) Furnishing any taxpayer or his properly authorized agent with information
13 respecting his own return;
 - 14 (d) Testimony provided by the commissioner or any employee of the department
15 in any court, or the introduction as evidence of returns or reports filed with the
16 department, in an action for violation of state or federal tax laws or in any
17 action challenging state or federal tax laws;
 - 18 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or
19 energy resources assessed under KRS 132.820, or owners of surface land
20 under which the unmined minerals lie, factual information about the owner's
21 property derived from third-party returns filed for that owner's property, under
22 the provisions of KRS 132.820, that is used to determine the owner's
23 assessment. This information shall be provided to the owner on a confidential
24 basis, and the owner shall be subject to the penalties provided in KRS
25 131.990(2). The third-party filer shall be given prior notice of any disclosure
26 of information to the owner that was provided by the third-party filer;
 - 27 (f) Providing to a third-party purchaser pursuant to an order entered in a

- 1 foreclosure action filed in a court of competent jurisdiction, factual
 2 information related to the owner or lessee of coal, oil, gas reserves, or any
 3 other mineral resources assessed under KRS 132.820. The department may
 4 promulgate an administrative regulation establishing a fee schedule for the
 5 provision of the information described in this paragraph. Any fee imposed
 6 shall not exceed the greater of the actual cost of providing the information or
 7 ten dollars (\$10);
- 8 (g) Providing information to a licensing agency, the Transportation Cabinet, or
 9 the Kentucky Supreme Court under KRS 131.1817;
- 10 (h) Statistics of gasoline and special fuels gallonage reported to the department
 11 under KRS 138.210 to 138.448;
- 12 (i) Providing any utility gross receipts license tax return information that is
 13 necessary to administer the provisions of KRS 160.613 to 160.617 to
 14 applicable school districts on a confidential basis; or
- 15 (j) Providing information to the Legislative Research Commission under:
- 16 **1. KRS 139.470 for purposes of the sales and use tax exemption for**
 17 **extended warranty services;**
- 18 **2.**~~[1.]~~ KRS 139.519 for purposes of the sales and use tax refund on building
 19 materials used for disaster recovery;
- 20 **3. KRS 141.068 for purposes of the Kentucky investment fund;**
- 21 **4. KRS 141.396 for purposes of the angel investor tax credit;**
- 22 **5. KRS 141.389 for purposes of the distilled spirits credit;**
- 23 **6. KRS 141.408 for purposes of the inventory credit;**
- 24 **7.**~~[2.]~~ KRS 141.436 for purposes of the energy efficiency products credits;
- 25 **8.**~~[3.]~~ KRS 141.437 for purposes of the ENERGY STAR home and the
 26 ENERGY STAR manufactured home credits;
- 27 **9.**~~[4.]~~ KRS 148.544 for purposes of the film industry incentives; **and**

1 ~~10.15.]~~ KRS 154.26-095 for purposes of the Kentucky industrial
2 revitalization tax credits and the job assessment fees];
3 ~~6.—KRS 141.068 for purposes of the Kentucky investment fund;~~
4 ~~7.—KRS 141.396 for purposes of the angel investor tax credit;~~
5 ~~8.—KRS 141.389 for purposes of the distilled spirits credit; and~~
6 ~~9.—KRS 141.408 for purposes of the inventory credit].~~

7 (3) The commissioner shall make available any information for official use only and on
8 a confidential basis to the proper officer, agency, board or commission of this state,
9 any Kentucky county, any Kentucky city, any other state, or the federal government,
10 under reciprocal agreements whereby the department shall receive similar or useful
11 information in return.

12 (4) Access to and inspection of information received from the Internal Revenue Service
13 is for department use only, and is restricted to tax administration purposes.
14 Information received from the Internal Revenue Service shall not be made available
15 to any other agency of state government, or any county, city, or other state, and shall
16 not be inspected intentionally and without authorization by any present secretary or
17 employee of the Finance and Administration Cabinet, commissioner or employee of
18 the department, or any other person.

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

24 (6) Notwithstanding any provision of law to the contrary, beginning with mine-map
25 submissions for the 1989 tax year, the department may make public or divulge only
26 those portions of mine maps submitted by taxpayers to the department pursuant to
27 KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-

1 out parcel areas. These electronic maps shall not be relied upon to determine actual
2 boundaries of mined-out parcel areas. Property boundaries contained in mine maps
3 required under KRS Chapters 350 and 352 shall not be construed to constitute land
4 surveying or boundary surveys as defined by KRS 322.010 and any administrative
5 regulations promulgated thereto.