

1 AN ACT relating to an increase in tax rates.

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

3 ➔Section 1. KRS 139.200 is amended to read as follows:

4 **(1) Prior to January 1, 2021,** a tax is hereby imposed upon all retailers at the rate of six
5 percent (6%) of the gross receipts derived from:

6 **(a)**~~(1)~~ Retail sales of:

7 **1.**~~(a)~~ Tangible personal property, regardless of the method of delivery,
8 made within this Commonwealth; and

9 **2.**~~(b)~~ Digital property regardless of whether:

10 **a.**~~(1)~~ The purchaser has the right to permanently use the property;

11 **b.**~~(2)~~ The purchaser's right to access or retain the property is not
12 permanent; or

13 **c.**~~(3)~~ The purchaser's right of use is conditioned upon continued
14 payment; and

15 **(b)**~~(2)~~ The furnishing of the following:

16 **1.**~~(a)~~ The rental of any room or rooms, lodgings, campsites, or
17 accommodations furnished by any hotel, motel, inn, tourist camp, tourist
18 cabin, campgrounds, recreational vehicle parks, or any other place in
19 which rooms, lodgings, campsites, or accommodations are regularly
20 furnished to transients for a consideration. The tax shall not apply to
21 rooms, lodgings, campsites, or accommodations supplied for a
22 continuous period of thirty (30) days or more to a person;

23 **2.**~~(b)~~ Sewer services;

24 **3.**~~(c)~~ The sale of admissions, except:

25 **a.**~~(1)~~ Admissions to racetracks taxed under KRS 138.480;

26 **b.**~~(2)~~ Admissions to historical sites exempt under KRS 139.482;

27 **c.**~~(3)~~ Admissions taxed under KRS 229.031;

- 1 ~~**d.**~~[4.] Admissions charged by nonprofit educational, charitable, or
2 religious institutions exempt under KRS 139.495; and
- 3 ~~**e.**~~[5.] Admissions charged by nonprofit civic, governmental, or other
4 nonprofit organizations exempt under KRS 139.498;
- 5 ~~**4.**~~[(d)] Prepaid calling service and prepaid wireless calling service;
- 6 ~~**5.**~~[(e)] Intrastate, interstate, and international communications services as
7 defined in KRS 139.195, except the furnishing of pay telephone service
8 as defined in KRS 139.195;
- 9 ~~**6.**~~[(f)] Distribution, transmission, or transportation services for natural
10 gas that is for storage, use, or other consumption in this state, excluding
11 those services furnished:
- 12 ~~**a.**~~[1.] For natural gas that is classified as residential use as provided in
13 KRS 139.470(7); or
- 14 ~~**b.**~~[2.] To a seller or reseller of natural gas;
- 15 ~~**7.**~~[(g)] Landscaping services, including but not limited to:
- 16 ~~**a.**~~[1.] Lawn care and maintenance services;
- 17 ~~**b.**~~[2.] Tree trimming, pruning, or removal services;
- 18 ~~**c.**~~[3.] Landscape design and installation services;
- 19 ~~**d.**~~[4.] Landscape care and maintenance services; and
- 20 ~~**e.**~~[5.] Snow plowing or removal services;
- 21 ~~**8.**~~[(h)] Janitorial services, including but not limited to residential and
22 commercial cleaning services, and carpet, upholstery, and window
23 cleaning services;
- 24 ~~**9.**~~[(i)] Small animal veterinary services, excluding veterinary services for
25 equine, cattle, poultry, swine, sheep, goats, llamas, alpacas, ratite birds,
26 buffalo, and cervids;
- 27 ~~**10.**~~[(j)] Pet care services, including but not limited to grooming and

1 boarding services, pet sitting services, and pet obedience training
2 services;

3 11.~~-(k)~~ Industrial laundry services, including but not limited to industrial
4 uniform supply services, protective apparel supply services, and
5 industrial mat and rug supply services;

6 12.~~-(l)~~ Non-coin-operated laundry and dry cleaning services;

7 13.~~-(m)~~ Linen supply services, including but not limited to table and bed
8 linen supply services and nonindustrial uniform supply services;

9 14.~~-(n)~~ Indoor skin tanning services, including but not limited to tanning
10 booth or tanning bed services and spray tanning services;

11 15.~~-(o)~~ Non-medical diet and weight reducing services;

12 16.~~-(p)~~ Limousine services, if a driver is provided; and

13 17.~~-(q)~~ Extended warranty services.

14 **(2) On or after January 1, 2021, a tax is hereby imposed upon all retailers at the rate**
15 **of eight percent (8%) of the gross receipts derived from retail sales described in**
16 **subsection (1)(a) of this section and the furnishing of accommodations, services,**
17 **and admissions described in subsection (1)(b) of this section.**

18 ➔Section 2. KRS 139.310 is amended to read as follows:

19 (1) **(a) Prior to January 1, 2021,** an excise tax is hereby imposed on the storage, use,
20 or other consumption in this state of tangible personal property, digital
21 property, and extended warranty services purchased for storage, use, or other
22 consumption in this state at the rate of six percent (6%) of the sales price.

23 **(b) On or after January 1, 2021, an excise tax is hereby imposed on the storage,**
24 **use, or other consumption in this state of tangible personal property, digital**
25 **property, and extended warranty services purchased for storage, use, or**
26 **other consumption in this state at the rate of eight percent (8%) of the sales**
27 **price.**

- 1 (2) The excise tax applies to the purchase of digital property regardless of whether:
- 2 (a) The purchaser has the right to permanently use the goods;
- 3 (b) The purchaser's right to access or retain the digital property is not permanent;
- 4 or
- 5 (c) The purchaser's right of use is conditioned upon continued payment.

6 ➔Section 3. KRS 139.230 is amended to read as follows:

7 **(1) Prior to January 1, 2021,** to eliminate fractions of one cent (\$0.01), and to ensure
 8 that the aggregate collections of taxes by a retailer, so far as may be practicable,
 9 shall be equal to six percent (6%) of gross receipts or sales price, as the case may
 10 be, the tax shall be computed by applying the six percent (6%) rate to the sales price
 11 carried to the third decimal place and rounded to the nearest cent by eliminating any
 12 fraction less than one-half of one cent (\$0.005) and increasing any fraction of one-
 13 half of one cent (\$0.005) or over to the next higher cent.

14 **(2) On or after January 1, 2021, to eliminate fractions of one cent (\$0.01), and to**
 15 **ensure that the aggregate collections of taxes by a retailer, so far as may be**
 16 **practicable, shall be equal to eight percent (8%) of gross receipts or sales price,**
 17 **the tax shall be computed by applying the eight percent (8%) rate to the sales**
 18 **price carried to the third decimal place and rounded to the nearest cent by**
 19 **eliminating any fraction less than one-half of one cent (\$0.005) and increasing**
 20 **any fraction of one-half of one cent (\$0.005) or over to the next higher cent.**

21 ➔Section 4. KRS 139.471 is amended to read as follows:

22 Excluded from the additional taxes imposed by KRS 139.200 and 139.310 are gross
 23 receipts:

- 24 (1) **(a)** Derived from sales of and the storage, use, or other consumption of tangible
 25 personal property purchased for use in the performance of a lump-sum, fixed-
 26 fee contract executed on or before March 9, 1990;

27 **(b)**~~(2)~~ Derived from sales made under fixed price sales contracts executed on

1 or before March 9, 1990, provided the contract specifies a five percent (5%)
 2 sales tax rate; and

3 ~~(c)~~⁽³⁾ Derived from a lease or rental agreement entered into on or before
 4 March 9, 1990; and

5 **(2) (a) Derived from sales of and the storage, use, or other consumption of tangible**
 6 **personal property purchased for use in the performance of a lump-sum,**
 7 **fixed-fee contract executed after March 9, 1990, but on or before July 10,**
 8 **2019;**

9 **(b) Derived from sales made under fixed price sales contracts executed after**
 10 **March 9, 1990, but on or before July 10, 2019, provided the contract**
 11 **specifies a six percent (6%) sales tax rate; and**

12 **(c) Derived from a lease or rental agreement entered into after March 9, 1990**
 13 **but on or before July 10, 2019.**

14 ➔Section 5. KRS 138.460 is amended to read as follows:

15 (1) **(a) Prior to January 1, 2021,** a tax levied upon its retail price at the rate of six
 16 percent (6%) shall be paid on the use in this state of every motor vehicle,
 17 except those exempted by KRS 138.470, at the time and in the manner
 18 provided in this section.

19 **(b) On or after January 1, 2021, a tax levied upon its retail price at the rate of**
 20 **eight percent (8%) shall be paid on the use in this state of every motor**
 21 **vehicle, except those exempted by KRS 138.470, at the time and in the**
 22 **manner provided in this section.**

23 (2) The tax shall be collected by the county clerk or other officer with whom the
 24 vehicle is required to be titled or registered:

25 (a) When the fee for titling or registering a motor vehicle the first time it is
 26 offered for titling or registration in this state is collected; or

27 (b) Upon the transfer of title or registration of any motor vehicle previously titled

1 or registered in this state.

2 (3) The tax imposed by subsection (1) of this section and collected under subsection (2)
3 of this section shall not be collected if the owner provides to the county clerk a
4 signed affidavit of nonhighway use, on a form provided by the department, attesting
5 that the vehicle will not be used on the highways of the Commonwealth. If this type
6 of affidavit is provided, the clerk shall, in accordance with the provisions of KRS
7 Chapter 139, immediately collect the applicable sales and use tax due on the
8 vehicle.

9 (4) (a) The tax collected by the county clerk under this section shall be reported and
10 remitted to the department on forms prescribed and provided by the
11 department. The department shall provide each county clerk affidavit forms
12 which the clerk shall provide to the public free of charge to carry out the
13 provisions of KRS 138.450 and subsection (3) of this section. The county
14 clerk shall for his services in collecting the tax be entitled to retain an amount
15 equal to three percent (3%) of the tax collected and accounted for.

16 (b) The sales and use tax collected by the county clerk under subsection (3) of this
17 section shall be reported and remitted to the department on forms which the
18 department shall prescribe and provide at no cost. The county clerk shall, for
19 his or her services in collecting the tax, be entitled to retain an amount equal
20 to three percent (3%) of the tax collected and accounted for.

21 (c) Motor vehicle dealers licensed pursuant to KRS Chapter 190 shall not owe or
22 be responsible for the collection of sales and use tax due under subsection (3)
23 of this section.

24 (5) A county clerk or other officer shall not title, register or issue any license tags to the
25 owner of any motor vehicle subject to the tax imposed by subsection (1) of this
26 section or the tax imposed by KRS Chapter 139, when the vehicle is being offered
27 for titling or registration for the first time, or transfer the title of any motor vehicle

1 previously registered in this state, unless the owner or his agent pays the tax levied
2 under subsection (1) of this section or the tax imposed by KRS Chapter 139, if
3 applicable, in addition to any title, registration, or license fees.

4 (6) (a) When a person offers a motor vehicle:

5 1. For titling on or after July 1, 2005; or

6 2. For registration;

7 for the first time in this state which was registered in another state that levied
8 a tax substantially identical to the tax levied under this section, the person
9 shall be entitled to receive a credit against the tax imposed by this section
10 equal to the amount of tax paid to the other state. A credit shall not be given
11 under this subsection for taxes paid in another state if that state does not grant
12 similar credit for substantially identical taxes paid in this state.

13 (b) When a resident of this state offers a motor vehicle for registration for the first
14 time in this state:

15 1. Upon which the Kentucky sales and use tax was paid by the resident
16 offering the motor vehicle for registration at the time of titling under
17 subsection (3) of this section; and

18 2. For which the resident provides proof that the tax was paid;

19 a nonrefundable credit shall be given against the tax imposed by subsection
20 (1) of this section for the sales and use tax paid.

21 (7) (a) A county clerk or other officer shall not title, register, or issue any license tags
22 to the owner of any motor vehicle subject to this tax, when the vehicle is then
23 being offered for titling or registration for the first time, unless the seller or his
24 agent delivers to the county clerk a notarized affidavit, if required, and
25 available under KRS 138.450 attesting to the total and actual consideration
26 paid or to be paid for the motor vehicle.

27 (b) If a notarized affidavit is not available, the clerk shall follow the procedures

1 under KRS 138.450(12) for new vehicles, and KRS 138.450(14) or (15) for
2 used vehicles.

3 (c) The clerk shall attach the notarized affidavit, if available, or other
4 documentation attesting to the retail price of the vehicle as the department
5 may prescribe by administrative regulation promulgated under KRS Chapter
6 13A to the copy of the certificate of registration and application for title
7 mailed to the department.

8 (8) **(a) Prior to January 1, 2021,** notwithstanding ~~the provisions of~~ KRS 138.450,
9 the tax shall not be less than six dollars (\$6) upon titling or first registration of
10 a motor vehicle in this state, except where the vehicle is exempt from tax
11 under KRS 138.470~~[or 154.45-090]~~.

12 **(b) On or after January 1, 2021, notwithstanding KRS 138.450, the tax shall**
13 **not be less than eight dollars (\$8) upon titling or first registration of a**
14 **motor vehicle in this state, except where the vehicle is exempt from tax**
15 **under KRS 138.470.**

16 (9) Where a motor vehicle is sold by a dealer and the purchaser returns the vehicle for
17 any reason to the same dealer within sixty (60) days for a vehicle replacement or a
18 refund of the purchase price, the purchaser shall be entitled to a refund of the
19 amount of usage tax received by the department as a result of the registration of the
20 returned vehicle. In the case of a new motor vehicle, the registration of the returned
21 vehicle shall be canceled and the vehicle shall be considered to have not been
22 previously registered in Kentucky when resold by the dealer.

23 (10) When a manufacturer refunds the retail purchase price or replaces a new motor
24 vehicle for the original purchaser within ninety (90) days because of malfunction or
25 defect, the purchaser shall be entitled to a refund of the amount of motor vehicle
26 usage tax received by the department as a result of the first titling or registration. A
27 person shall not be entitled to a refund unless the person has filed with the

1 department a report from the manufacturer identifying the vehicle that was replaced
2 and stating the date of replacement.

3 (11) Notwithstanding the time limitations of subsections (9) and (10) of this section,
4 when a dealer or manufacturer refunds the retail purchase price or replaces a motor
5 vehicle for the purchaser as a result of formal arbitration or litigation, or, in the case
6 of a manufacturer, because ordered to do so by a dispute resolution system
7 established under KRS 367.865 or 16 C.F.R. 703, the purchaser shall be entitled to
8 a refund of the amount of motor vehicle usage tax received by the department as a
9 result of the titling or registration. A person shall not be entitled to a refund unless
10 the person files with the department a report from the dealer or manufacturer
11 identifying the vehicle that was replaced.

12 (12) (a) An owner who has paid the tax levied under this section on a used motor
13 vehicle or U-Drive-It vehicle based upon the retail price as defined in KRS
14 138.450(16)(a) shall be entitled to a refund of any tax overpayment, plus
15 applicable interest as provided in KRS 131.183, if the owner:

- 16 1. Files for a refund with the department within four (4) years from the date
17 the tax was paid as provided in KRS 134.580; and
- 18 2. Documents to the satisfaction of the department that the condition of the
19 vehicle merits a retail price lower than the retail price as defined in KRS
20 138.450(16)(a).

21 (b) The department shall promulgate administrative regulations to develop the
22 forms and the procedures by which the owner can apply for a refund and
23 document the condition of the vehicle. The department shall provide the
24 information to each county clerk.

25 (c) The refund shall be based upon the difference between the tax paid and the tax
26 determined to be due by the department at the time the owner titled or
27 registered the vehicle.

1 ➔Section 6. KRS 138.463 is amended to read as follows:

- 2 (1) **(a) Prior to January 1, 2021,** a holder of a certificate as required under KRS
3 281.630 to operate as a U-Drive-It as defined in KRS 281.010 may pay the
4 usage tax as provided in KRS 138.460 or, subject to the provisions of this
5 section, may pay a usage tax of six percent (6%) levied upon the amount of
6 the gross rental or lease charges paid by a customer or lessee renting or leasing
7 a motor vehicle from such holder of the certificate.
- 8 **(b) On or after January 1, 2021, a holder of a certificate as required under KRS**
9 **281.630 to operate as a U-Drive-It as defined in KRS 281.010 may pay the**
10 **usage tax as provided in Section 5 of this Act or, subject to this section, may**
11 **pay a usage tax of eight percent (8%) levied upon the amount of the gross**
12 **rental or lease charges paid by a customer or lessee renting or leasing a**
13 **motor vehicle from such holder of the certificate.**
- 14 (2) The provisions of KRS 138.462 and this section shall apply to all rental and
15 leasehold contracts entered into after **July 10, 2019**~~March 9, 1990~~.
- 16 (3) A holder of a certificate shall pay the usage tax as provided in KRS 138.460 unless
17 he shows to the satisfaction of the cabinet that he is regularly engaged in the renting
18 or leasing of motor vehicles to retail customers as a part of an established business.
19 The issuance of a U-Drive-It certificate under the provisions of KRS Chapter 281
20 shall create a rebuttable presumption that the holder of a certificate is regularly
21 engaged in renting or leasing. Persons first engaging in the renting or leasing of
22 motor vehicles to retail customers shall, in addition to obtaining a certificate
23 required under KRS 281.630, demonstrate to the satisfaction of the cabinet that they
24 are prepared to qualify under the standards set forth in this subsection.
- 25 (4) In the event the holder of such certificate qualifies under subsection (3) of this
26 section and elects to pay the usage tax by the alternate method as provided in
27 subsection (1) of this section, or is required by subsection (8) of this section to pay

1 by the alternate method, he shall pay the fee imposed by KRS 281.631(3) and in
2 addition shall pay the monthly tax authorized by subsection (1) of this section.

3 (5) The tax authorized by subsection (1) of this section shall be the direct obligation of
4 the holder of the certificate but it may be charged to and collected from the
5 customer in addition to the rental or lease charges. The tax due shall be remitted to
6 the cabinet each month on forms and pursuant to regulations promulgated by the
7 cabinet.

8 (6) (a) As soon as practicable after each return is received, the cabinet shall examine
9 and audit it. If the amount of tax computed by the cabinet is greater than the
10 amount returned by the taxpayer, the excess shall be assessed by the cabinet
11 within four (4) years from the date the return was filed, except as provided in
12 paragraph (c) of this subsection, and except that in the case of a failure to file
13 a return or of a fraudulent return the excess may be assessed at any time. A
14 notice of such assessment shall be mailed to the taxpayer. The time herein
15 provided may be extended by agreement between the taxpayer and the cabinet.

16 (b) For the purpose of paragraphs (a) and (c) of this subsection, a return filed
17 before the last day prescribed by law for the filing thereof shall be considered
18 as filed on such last day.

19 (c) Notwithstanding the four (4) year time limitation of paragraph (a) of this
20 subsection, in the case of a return where the tax computed by the cabinet is
21 greater by twenty-five percent (25%) or more than the amount returned by the
22 taxpayer, the excess shall be assessed by the cabinet within six (6) years from
23 the date the return was filed.

24 (7) Failure of the holder of the certificate to remit the taxes applicable to the rental
25 charges as provided herein shall be sufficient cause for the Department of Vehicle
26 Regulation to void the certificate issued to such holder and the usage tax on each of
27 the motor vehicles which had been registered by the holder under the certificate

1 shall be due and payable on the retail price of each such motor vehicle when it was
2 first purchased by the holder.

3 (8) Notwithstanding the provisions of KRS 138.460 and subsection (1) of this section, a
4 holder of a certificate operating a fleet of rental passenger cars which has been
5 registered pursuant to an allocation formula approved by the cabinet shall pay the
6 tax by the method provided in this section. The provisions of this section shall apply
7 to all vehicles rented by the holder in this state.

8 (9) The usage tax reported and paid on every rental or lease of a vehicle registered
9 pursuant to this section shall be based on the fair market rental or lease value of the
10 vehicle. Fair market rental or lease value shall be based on standards established by
11 administrative regulation promulgated by the cabinet. The cabinet may remove a
12 vehicle from the U-Drive-It program without a hearing if it is determined by the
13 cabinet that no taxes have been remitted on that vehicle during the registration
14 period. However, the tax reported and paid to the Transportation Cabinet shall not
15 be less than the amount due based on the actual terms of a rental or lease agreement.
16 The burden of proving that the consideration charged by the holder satisfies this
17 subsection is on the holder.

18 ➔Section 7. KRS 139.260 is amended to read as follows:

19 For the purpose of the proper administration of this chapter and to prevent evasion of the
20 duty to collect the taxes imposed by KRS 139.200 and 139.310, it shall be presumed that
21 all gross receipts and all tangible personal property, digital property, and services sold by
22 any person for delivery or access in this state are subject to the tax until the contrary is
23 established. The burden of proving the contrary is upon the person who makes the sale of:

24 (1) Tangible personal property or digital property unless the person takes from the
25 purchaser a certificate to the effect that the property is either:

26 (a) Purchased for resale according to the provisions of KRS 139.270;

27 (b) Purchased through a fully completed certificate of exemption or fully

- 1 completed Streamlined Sales and Use Tax Agreement Certificate of
 2 Exemption in accordance with KRS 139.270; or
- 3 (c) Purchased according to administrative regulations promulgated by the
 4 department governing a direct pay authorization;
- 5 (2) A service included in KRS 139.200(1)(b) 1. to 6.~~(2)(a) to (f)~~ unless the person
 6 takes from the purchaser a certificate to the effect that the service is purchased
 7 through a fully completed certificate of exemption or fully completed Streamlined
 8 Sales and Use Tax Agreement Certificate of Exemption in accordance with KRS
 9 139.270; and
- 10 (3) A service included in KRS 139.200(1)(b) 7. to 17.~~(2)(g) to (q)~~ unless the person
 11 takes from the purchaser a certificate to the effect that the property is:
- 12 (a) Purchased for resale according to KRS 139.270;
- 13 (b) Purchased through a fully completed certificate of exemption or fully
 14 completed Streamlined Sales and Use Tax Agreement Certificate of
 15 Exemption in accordance with KRS 139.270; or
- 16 (c) Purchased according to administrative regulations promulgated by the
 17 department governing a direct pay authorization.

18 ➔Section 8. KRS 139.470 is amended to read as follows:

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

- 20 (1) Gross receipts from the sale of, and the storage, use, or other consumption in this
 21 state of, tangible personal property or digital property which this state is prohibited
 22 from taxing under the Constitution or laws of the United States, or under the
 23 Constitution of this state;
- 24 (2) Gross receipts from sales of, and the storage, use, or other consumption in this state
 25 of:
- 26 (a) Nonreturnable and returnable containers when sold without the contents to
 27 persons who place the contents in the container and sell the contents together

1 with the container; and

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

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

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

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

16 (5) Gross receipts from sales of tangible personal property sold through coin-operated
17 bulk vending machines, if the sale amounts to fifty cents (\$0.50) or less, if the
18 retailer is primarily engaged in making the sales and maintains records satisfactory
19 to the department. As used in this subsection, "bulk vending machine" means a
20 vending machine containing unsorted merchandise which, upon insertion of a coin,
21 dispenses the same in approximately equal portions, at random and without
22 selection by the customer;

23 (6) Gross receipts from sales to any cabinet, department, bureau, commission, board, or
24 other statutory or constitutional agency of the state and gross receipts from sales to
25 counties, cities, or special districts as defined in KRS 65.005. This exemption shall
26 apply only to purchases of tangible personal property, digital property, or services
27 for use solely in the government function. A purchaser not qualifying as a

1 governmental agency or unit shall not be entitled to the exemption even though the
2 purchaser may be the recipient of public funds or grants;

3 (7) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky
4 residents for use in heating, water heating, cooking, lighting, and other
5 residential uses. As used in this subsection, "fuel" shall include but not be
6 limited to natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood.
7 Determinations of eligibility for the exemption shall be made by the
8 department;

9 (b) In making the determinations of eligibility, the department shall exempt from
10 taxation all gross receipts derived from sales:

- 11 1. Classified as "residential" by a utility company as defined by applicable
12 tariffs filed with and accepted by the Public Service Commission;
- 13 2. Classified as "residential" by a municipally owned electric distributor
14 which purchases its power at wholesale from the Tennessee Valley
15 Authority;
- 16 3. Classified as "residential" by the governing body of a municipally owned
17 electric distributor which does not purchase its power from the
18 Tennessee Valley Authority, if the "residential" classification is
19 reasonably consistent with the definitions of "residential" contained in
20 tariff filings accepted and approved by the Public Service Commission
21 with respect to utilities which are subject to Public Service Commission
22 regulation.

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

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

1 classification; and

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

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

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

15 1. Materials which enter into and become an ingredient or component part
16 of the manufactured product;

17 2. Other tangible personal property which is directly used in the
18 manufacturing or industrial processing process, if the property has a
19 useful life of less than one (1) year. Specifically these items are
20 categorized as follows:

21 a. Materials. This refers to the raw materials which become an
22 ingredient or component part of supplies or industrial tools exempt
23 under subdivisions b. and c. below;

24 b. Supplies. This category includes supplies such as lubricating and
25 compounding oils, grease, machine waste, abrasives, chemicals,
26 solvents, fluxes, anodes, filtering materials, fire brick, catalysts,
27 dyes, refrigerants, and explosives. The supplies indicated above

- 1 need not come in direct contact with a manufactured product to be
2 exempt. "Supplies" does not include repair, replacement, or spare
3 parts of any kind; and
- 4 c. Industrial tools. This group is limited to hand tools such as jigs,
5 dies, drills, cutters, rolls, reamers, chucks, saws, and spray guns
6 and to tools attached to a machine such as molds, grinding balls,
7 grinding wheels, dies, bits, and cutting blades. Normally, for
8 industrial tools to be considered directly used in the manufacturing
9 or industrial processing process, they shall come into direct contact
10 with the product being manufactured or processed; and
- 11 3. Materials and supplies that are not reusable in the same manufacturing
12 or industrial processing process at the completion of a single
13 manufacturing or processing cycle. A single manufacturing cycle shall
14 be considered to be the period elapsing from the time the raw materials
15 enter into the manufacturing process until the finished product emerges
16 at the end of the manufacturing process.
- 17 (b) The property described in paragraph (a) of this subsection shall be regarded as
18 having been purchased for resale.
- 19 (c) For purposes of this subsection, a manufacturer or industrial processor
20 includes an individual or business entity that performs only part of the
21 manufacturing or industrial processing activity, and the person or business
22 entity need not take title to tangible personal property that is incorporated into,
23 or becomes the product of, the activity.
- 24 (d) The exemption provided in this subsection does not include repair,
25 replacement, or spare parts;
- 26 (10) Any water use fee paid or passed through to the Kentucky River Authority by
27 facilities using water from the Kentucky River basin to the Kentucky River

1 Authority in accordance with KRS 151.700 to 151.730 and administrative
2 regulations promulgated by the authority;

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

10 (a) As used in this subsection:

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

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

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 (12) Gross receipts from the sale of water used in the raising of equine as a business;

20 (13) Gross receipts from the sale of metal retail fixtures manufactured in this state and
21 purchased for storage, use, or other consumption outside this state and delivered by
22 the retailer's own vehicle to a location outside this state, or delivered to the United
23 States Postal Service, a common carrier, or a contract carrier for delivery outside
24 this state, regardless of whether the carrier is selected by the purchaser or retailer or
25 an agent or representative of the purchaser or retailer, or whether the F.O.B. is the
26 retailer's shipping point or the purchaser's destination.

27 (a) As used in this subsection, "metal retail fixtures" means check stands and

1 belted and nonbelted checkout counters, whether made in bulk or pursuant to
2 specific purchaser specifications, that are to be used directly by the purchaser
3 or to be distributed by the purchaser.

4 (b) The retailer shall be responsible for establishing that delivery was made to a
5 non-Kentucky location through shipping documents or other credible evidence
6 as determined by the department;

7 (14) Gross receipts from the sale of unenriched or enriched uranium purchased for
8 ultimate storage, use, or other consumption outside this state and delivered to a
9 common carrier in this state for delivery outside this state, regardless of whether the
10 carrier is selected by the purchaser or retailer, or is an agent or representative of the
11 purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or
12 purchaser's destination;

13 (15) Amounts received from a tobacco buydown. As used in this subsection, "buydown"
14 means an agreement whereby an amount, whether paid in money, credit, or
15 otherwise, is received by a retailer from a manufacturer or wholesaler based upon
16 the quantity and unit price of tobacco products sold at retail that requires the retailer
17 to reduce the selling price of the product to the purchaser without the use of a
18 manufacturer's or wholesaler's coupon or redemption certificate;

19 (16) Gross receipts from the sale of tangible personal property or digital property
20 returned by a purchaser when the full sales price is refunded either in cash or credit.
21 This exclusion shall not apply if the purchaser, in order to obtain the refund, is
22 required to purchase other tangible personal property or digital property at a price
23 greater than the amount charged for the property that is returned;

24 (17) Gross receipts from the sales of gasoline and special fuels subject to tax under KRS
25 Chapter 138;

26 (18) The amount of any tax imposed by the United States upon or with respect to retail
27 sales, whether imposed on the retailer or the consumer, not including any

- 1 manufacturer's excise or import duty;
- 2 (19) Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which
- 3 is:
- 4 (a) Sold to a Kentucky resident, registered for use on the public highways, and
- 5 upon which any applicable tax levied by KRS 138.460 has been paid; or
- 6 (b) Sold to a nonresident of Kentucky if the nonresident registers the motor
- 7 vehicle in a state that:
- 8 1. Allows residents of Kentucky to purchase motor vehicles without
- 9 payment of that state's sales tax at the time of sale; or
- 10 2. Allows residents of Kentucky to remove the vehicle from that state
- 11 within a specific period for subsequent registration and use in Kentucky
- 12 without payment of that state's sales tax;
- 13 (20) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and
- 14 trailer as defined in KRS 189.010(17);
- 15 (21) Gross receipts from the collection of:
- 16 (a) Any fee or charge levied by a local government pursuant to KRS 65.760;
- 17 (b) The charge imposed by KRS 65.7629(3);
- 18 (c) The fee imposed by KRS 65.7634; and
- 19 (d) The service charge imposed by KRS 65.7636;
- 20 (22) Gross receipts derived from charges for labor or services to apply, install, repair, or
- 21 maintain tangible personal property directly used in manufacturing or industrial
- 22 processing process, and that is not otherwise exempt under subsection (9) of this
- 23 section or KRS 139.480(10), if the charges for labor or services are separately stated
- 24 on the invoice, bill of sale, or similar document given to purchaser;
- 25 (23) (a) For persons selling services included in KRS 139.200(1)(b) 7. to 17. ~~(2)(g) to~~
- 26 ~~(q)~~ prior to January 1, 2019, gross receipts derived from the sale of those
- 27 services if the gross receipts were less than six thousand dollars (\$6,000)

1 during calendar year 2018. When gross receipts from these services exceed six
2 thousand dollars (\$6,000) in a calendar year:

- 3 1. All gross receipts over six thousand dollars (\$6,000) are taxable in that
4 calendar year; and
- 5 2. All gross receipts are subject to tax in subsequent calendar years.

6 (b) The exemption provided in this subsection shall not apply to a person also
7 engaged in the business of selling tangible personal property, digital property,
8 or services included in KRS 139.200(1)(b) 1. to 6.~~[(2)(a) to (f)]~~; and

9 (24) (a) For persons that first begin making sales of services included in KRS
10 139.200(1)(b) 7. to 17.~~[(2)(g) to (q)]~~ on or after January 1, 2019, gross
11 receipts derived from the sale of those services if the gross receipts are less
12 than six thousand dollars (\$6,000) within the first calendar year of operation.
13 When gross receipts from these services exceed six thousand dollars (\$6,000)
14 in a calendar year:

- 15 1. All gross receipts over six thousand dollars (\$6,000) are taxable in that
16 calendar year; and
- 17 2. All gross receipts are subject to tax in subsequent calendar years.

18 (b) The exemption provided in this subsection shall not apply to a person that is
19 also engaged in the business of selling tangible personal property, digital
20 property, or services included in KRS 139.200(1)(b) 1. to 6.~~[(2)(a) to (f)]~~.