

1 AN ACT relating to restaurant revitalization grants.

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 year
19 during which the death occurred and the year prior to the year during
20 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;~~[-and]~~
- 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) Allow the same treatment allowed under Pub. L. No. 117-2, sec. 9673,~~
- 12 ~~related to the tax treatment of restaurant revitalization grants for taxable~~
- 13 ~~periods beginning on or after February 15, 2020, but before March 11,~~
- 14 ~~2023; and~~
- 15 (2) Net income shall be calculated by subtracting from adjusted gross income all the
- 16 deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as
- 17 modified by KRS 141.0101, except:
- 18 (a) Any deduction allowed by 26 U.S.C. sec. 164 for taxes;
- 19 (b) Any deduction allowed by 26 U.S.C. sec. 165 for losses, except wagering
- 20 losses allowed under Section 165(d) of the Internal Revenue Code;
- 21 (c) Any deduction allowed by 26 U.S.C. sec. 213 for medical care expenses;
- 22 (d) Any deduction allowed by 26 U.S.C. sec. 217 for moving expenses;
- 23 (e) Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous
- 24 deduction;
- 25 (f) Any deduction allowed by the Internal Revenue Code for amounts allowable
- 26 under KRS 140.090(1)(h) in calculating the value of the distributive shares of
- 27 the estate of a decedent, unless there is filed with the income return a

1 statement that the deduction has not been claimed under KRS 140.090(1)(h);

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

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

16 (i) A taxpayer may elect to claim the standard deduction allowed by KRS
17 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63
18 and as modified by this section.

19 ➔Section 2. KRS 141.039 is amended to read as follows:

20 In the case of corporations:

21 (1) Gross income shall be calculated by adjusting federal gross income as defined in
22 Section 61 of the Internal Revenue Code as follows:

23 (a) Exclude income that is exempt from state taxation by the Kentucky
24 Constitution and the Constitution and statutory laws of the United States;

25 (b) Exclude all dividend income;

26 (c) Include interest income derived from obligations of sister states and political
27 subdivisions thereof;

- 1 (d) Exclude fifty percent (50%) of gross income derived from any disposal of coal
2 covered by Section 631(c) of the Internal Revenue Code if the corporation
3 does not claim any deduction for percentage depletion, or for expenditures
4 attributable to the making and administering of the contract under which such
5 disposition occurs or to the preservation of the economic interests retained
6 under such contract;
- 7 (e) Include the amount calculated under KRS 141.205;
- 8 (f) Ignore the provisions of Section 281 of the Internal Revenue Code in
9 computing gross income;
- 10 (g) Include the amount of depreciation deduction calculated under 26 U.S.C. sec.
11 167 or 168;~~and~~
- 12 (h) Allow the same treatment allowed under Pub. L. No. 116-260, secs. 276 and
13 278, related to the tax treatment of forgiven covered loans, deductions
14 attributable to those loans, and tax attributes associated with those loans for
15 taxable years ending on or after March 27, 2020, but before January 1, 2022;
16 and
- 17 (i) Allow the same treatment allowed under Pub. L. No. 117-2, sec. 9673,
18 related to the tax treatment of restaurant revitalization grants for taxable
19 periods beginning on or after February 15, 2020, but before March 11,
20 2023; and
- 21 (2) Net income shall be calculated by subtracting from gross income:
- 22 (a) The deduction for depreciation allowed by KRS 141.0101;
- 23 (b) Any amount paid for vouchers or similar instruments that provide health
24 insurance coverage to employees or their families;
- 25 (c) All the deductions from gross income allowed corporations by Chapter 1 of
26 the Internal Revenue Code, as modified by KRS 141.0101, except:
- 27 1. Any deduction for a state tax which is computed, in whole or in part, by

- 1 reference to gross or net income and which is paid or accrued to any
2 state of the United States, the District of Columbia, the Commonwealth
3 of Puerto Rico, any territory or possession of the United States, or to any
4 foreign country or political subdivision thereof;
- 5 2. The deductions contained in Sections 243, 245, and 247 of the Internal
6 Revenue Code;
- 7 3. The provisions of Section 281 of the Internal Revenue Code shall be
8 ignored in computing net income;
- 9 4. Any deduction directly or indirectly allocable to income which is either
10 exempt from taxation or otherwise not taxed under the provisions of this
11 chapter, except for deductions allowed under Pub. L. No. 116-260, secs.
12 276 and 278, related to the tax treatment of forgiven covered loans and
13 deductions attributable to those loans for taxable years ending on or after
14 March 27, 2020, but before January 1, 2022, and nothing in this chapter
15 shall be construed to permit the same item to be deducted more than
16 once;
- 17 5. Any deduction for amounts paid to any club, organization, or
18 establishment which has been determined by the courts or an agency
19 established by the General Assembly and charged with enforcing the
20 civil rights laws of the Commonwealth, not to afford full and equal
21 membership and full and equal enjoyment of its goods, services,
22 facilities, privileges, advantages, or accommodations to any person
23 because of race, color, religion, national origin, or sex, except nothing
24 shall be construed to deny a deduction for amounts paid to any religious
25 or denominational club, group, or establishment or any organization
26 operated solely for charitable or educational purposes which restricts
27 membership to persons of the same religion or denomination in order to

- 1 promote the religious principles for which it is established and
2 maintained;
- 3 6. Any deduction prohibited by KRS 141.205; and
4 7. Any dividends-paid deduction of any captive real estate investment trust;
5 and
- 6 (d) 1. A deferred tax deduction in an amount computed in accordance with this
7 paragraph.
8 2. For purposes of this paragraph:
9 a. "Net deferred tax asset" means that deferred tax assets exceed the
10 deferred tax liabilities of the combined group, as computed in
11 accordance with accounting principles generally accepted in the
12 United States of America; and
13 b. "Net deferred tax liability" means deferred tax liabilities that
14 exceed the deferred tax assets of a combined group as defined in
15 KRS 141.202, as computed in accordance with accounting
16 principles generally accepted in the United States of America.
- 17 3. Only publicly traded companies, including affiliated corporations
18 participating in the filing of a publicly traded company's financial
19 statements prepared in accordance with accounting principles generally
20 accepted in the United States of America, as of January 1, 2019, shall be
21 eligible for this deduction.
- 22 4. If the provisions of KRS 141.202 result in an aggregate increase to the
23 member's net deferred tax liability, an aggregate decrease to the
24 member's net deferred tax asset, or an aggregate change from a net
25 deferred tax asset to a net deferred tax liability, the combined group
26 shall be entitled to a deduction, as determined in this paragraph.
- 27 5. For ten (10) years beginning with the combined group's first taxable year

1 beginning on or after January 1, 2024, a combined group shall be
2 entitled to a deduction from the combined group's entire net income
3 equal to one-tenth (1/10) of the amount necessary to offset the increase
4 in the net deferred tax liability, decrease in the net deferred tax asset, or
5 aggregate change from a net deferred tax asset to a net deferred tax
6 liability. The increase in the net deferred tax liability, decrease in the net
7 deferred tax asset, or the aggregate change from a net deferred tax asset
8 to a net deferred tax liability shall be computed based on the change that
9 would result from the imposition of the combined reporting requirement
10 under KRS 141.202, but for the deduction provided under this paragraph
11 as of June 27, 2019.

12 6. The deferred tax impact determined in subparagraph 5. of this paragraph
13 shall be converted to the annual deferred tax deduction amount, as
14 follows:

15 a. The deferred tax impact determined in subparagraph 5. of this
16 paragraph shall be divided by the tax rate determined under KRS
17 141.040;

18 b. The resulting amount shall be further divided by the apportionment
19 factor determined by KRS 141.120 or 141.121 that was used by the
20 combined group in the calculation of the deferred tax assets and
21 deferred tax liabilities as described in subparagraph 5. of this
22 paragraph; and

23 c. The resulting amount represents the total net deferred tax
24 deduction available over the ten (10) year period as described in
25 subparagraph 5. of this paragraph.

26 7. The deduction calculated under this paragraph shall not be adjusted as a
27 result of any events happening subsequent to the calculation, including

1 but not limited to any disposition or abandonment of assets. The
2 deduction shall be calculated without regard to the federal tax effect and
3 shall not alter the tax basis of any asset. If the deduction under this
4 section is greater than the combined group's entire Kentucky net income,
5 any excess deduction shall be carried forward and applied as a deduction
6 to the combined group's entire net income in future taxable years until
7 fully utilized.

8 8. Any combined group intending to claim a deduction under this
9 paragraph shall file a statement with the department on or before July 1,
10 2019. The statement shall specify the total amount of the deduction
11 which the combined group claims on the form, including calculations
12 and other information supporting the total amounts of the deduction as
13 required by the department. No deduction shall be allowed under this
14 paragraph for any taxable year, except to the extent claimed on the
15 timely filed statement in accordance with this paragraph.