

1 AN ACT relating to income tax deductions for education expenses.

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

3 ➔Section 1. KRS 141.010 is amended to read as follows:

4 As used in this chapter, unless the context requires otherwise:

- 5 (1) "Commissioner" means the commissioner of the Department of Revenue;
- 6 (2) "Department" means the Department of Revenue;
- 7 (3) "Internal Revenue Code" means the Internal Revenue Code in effect on December  
8 31, 2015, exclusive of any amendments made subsequent to that date, other than  
9 amendments that extend provisions in effect on December 31, 2015, that would  
10 otherwise terminate, and as modified by KRS 141.0101;
- 11 (4) "Dependent" means those persons defined as dependents in the Internal Revenue  
12 Code;
- 13 (5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal  
14 Revenue Code;
- 15 (6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal  
16 Revenue Code;
- 17 (7) "Individual" means a natural person;
- 18 (8) "Modified gross income" means the greater of:
- 19 (a) Adjusted gross income as defined in Section 62 of the Internal Revenue Code  
20 of 1986, including any subsequent amendments in effect on December 31 of  
21 the taxable year, and adjusted as follows:
- 22 1. Include interest income derived from obligations of sister states and  
23 political subdivisions thereof; and
- 24 2. Include lump-sum pension distributions taxed under the special  
25 transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or
- 26 (b) Adjusted gross income as defined in subsection (10) of this section and  
27 adjusted to include lump-sum pension distributions taxed under the special

- 1 transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);
- 2 (9) "Gross income," in the case of taxpayers other than corporations, means "gross  
3 income" as defined in Section 61 of the Internal Revenue Code;
- 4 (10) "Adjusted gross income," in the case of taxpayers other than corporations, means  
5 gross income as defined in subsection (9) of this section minus the deductions  
6 allowed individuals by Section 62 of the Internal Revenue Code and as modified by  
7 KRS 141.0101 and adjusted as follows, except that deductions shall be limited to  
8 amounts allocable to income subject to taxation under the provisions of this chapter,  
9 and except that nothing in this chapter shall be construed to permit the same item to  
10 be deducted more than once:
- 11 (a) Exclude income that is exempt from state taxation by the Kentucky  
12 Constitution and the Constitution and statutory laws of the United States and  
13 Kentucky;
- 14 (b) Exclude income from supplemental annuities provided by the Railroad  
15 Retirement Act of 1937 as amended and which are subject to federal income  
16 tax by Public Law 89-699;
- 17 (c) Include interest income derived from obligations of sister states and political  
18 subdivisions thereof;
- 19 (d) Exclude employee pension contributions picked up as provided for in KRS  
20 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610,  
21 and 161.540 upon a ruling by the Internal Revenue Service or the federal  
22 courts that these contributions shall not be included as gross income until such  
23 time as the contributions are distributed or made available to the employee;
- 24 (e) Exclude Social Security and railroad retirement benefits subject to federal  
25 income tax;
- 26 (f) Include, for taxable years ending before January 1, 1991, all overpayments of  
27 federal income tax refunded or credited for taxable years;

- 1 (g) Deduct, for taxable years ending before January 1, 1991, federal income tax  
2 paid for taxable years ending before January 1, 1990;
- 3 (h) Exclude any money received because of a settlement or judgment in a lawsuit  
4 brought against a manufacturer or distributor of "Agent Orange" for damages  
5 resulting from exposure to Agent Orange by a member or veteran of the  
6 Armed Forces of the United States or any dependent of such person who  
7 served in Vietnam;
- 8 (i) 1. For taxable years ending prior to December 31, 2005, exclude the  
9 applicable amount of total distributions from pension plans, annuity  
10 contracts, profit-sharing plans, retirement plans, or employee savings  
11 plans. The "applicable amount" shall be:
- 12 a. Twenty-five percent (25%), but not more than six thousand two  
13 hundred fifty dollars (\$6,250), for taxable years beginning after  
14 December 31, 1994, and before January 1, 1996;
- 15 b. Fifty percent (50%), but not more than twelve thousand five  
16 hundred dollars (\$12,500), for taxable years beginning after  
17 December 31, 1995, and before January 1, 1997;
- 18 c. Seventy-five percent (75%), but not more than eighteen thousand  
19 seven hundred fifty dollars (\$18,750), for taxable years beginning  
20 after December 31, 1996, and before January 1, 1998; and
- 21 d. One hundred percent (100%), but not more than thirty-five  
22 thousand dollars (\$35,000), for taxable years beginning after  
23 December 31, 1997.
- 24 2. For taxable years beginning after December 31, 2005, exclude up to  
25 forty-one thousand one hundred ten dollars (\$41,110) of total  
26 distributions from pension plans, annuity contracts, profit-sharing plans,  
27 retirement plans, or employee savings plans.

- 1           3. As used in this paragraph:
- 2           a. "Distributions" includes but is not limited to any lump-sum
- 3           distribution from pension or profit-sharing plans qualifying for the
- 4           income tax averaging provisions of Section 402 of the Internal
- 5           Revenue Code; any distribution from an individual retirement
- 6           account as defined in Section 408 of the Internal Revenue Code;
- 7           and any disability pension distribution;
- 8           b. "Annuity contract" has the same meaning as set forth in Section
- 9           1035 of the Internal Revenue Code; and
- 10          c. "Pension plans, profit-sharing plans, retirement plans, or employee
- 11          savings plans" means any trust or other entity created or organized
- 12          under a written retirement plan and forming part of a stock bonus,
- 13          pension, or profit-sharing plan of a public or private employer for
- 14          the exclusive benefit of employees or their beneficiaries and
- 15          includes plans qualified or unqualified under Section 401 of the
- 16          Internal Revenue Code and individual retirement accounts as
- 17          defined in Section 408 of the Internal Revenue Code;
- 18          (j) 1. a. Exclude the portion of the distributive share of a shareholder's net
- 19          income from an S corporation subject to the franchise tax imposed
- 20          under KRS 136.505 or the capital stock tax imposed under KRS
- 21          136.300; and
- 22          b. Exclude the portion of the distributive share of a shareholder's net
- 23          income from an S corporation related to a qualified subchapter S
- 24          subsidiary subject to the franchise tax imposed under KRS
- 25          136.505 or the capital stock tax imposed under KRS 136.300.
- 26          2. The shareholder's basis of stock held in a S corporation where the S
- 27          corporation or its qualified subchapter S subsidiary is subject to the

1 franchise tax imposed under KRS 136.505 or the capital stock tax  
2 imposed under KRS 136.300 shall be the same as the basis for federal  
3 income tax purposes;

4 (k) Exclude, to the extent not already excluded from gross income, any amounts  
5 paid for health insurance, or the value of any voucher or similar instrument  
6 used to provide health insurance, which constitutes medical care coverage for  
7 the taxpayer, the taxpayer's spouse, and dependents, or for any person  
8 authorized to be provided excludable coverage by the taxpayer pursuant to the  
9 federal Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-  
10 148, or the Health Care and Education Reconciliation Act of 2010 Pub. L. No.  
11 111-152, during the taxable year. Any amounts paid by the taxpayer for health  
12 insurance that are excluded pursuant to this paragraph shall not be allowed as  
13 a deduction in computing the taxpayer's net income under subsection (11) of  
14 this section;

15 (l) Exclude income received for services performed as a precinct worker for  
16 election training or for working at election booths in state, county, and local  
17 primary, regular, or special elections;

18 (m) Exclude any amount paid during the taxable year for insurance for long-term  
19 care as defined in KRS 304.14-600;

20 (n) Exclude any capital gains income attributable to property taken by eminent  
21 domain;

22 (o) Exclude any amount received by a producer of tobacco or a tobacco quota  
23 owner from the multistate settlement with the tobacco industry, known as the  
24 Master Settlement Agreement, signed on November 22, 1998;

25 (p) Exclude any amount received from the secondary settlement fund, referred to  
26 as "Phase II," established by tobacco companies to compensate tobacco  
27 farmers and quota owners for anticipated financial losses caused by the

1 national tobacco settlement;

2 (q) Exclude any amount received from funds of the Commodity Credit  
3 Corporation for the Tobacco Loss Assistance Program as a result of a  
4 reduction in the quantity of tobacco quota allotted;

5 (r) Exclude any amount received as a result of a tobacco quota buydown program  
6 that all quota owners and growers are eligible to participate in;

7 (s) Exclude state Phase II payments received by a producer of tobacco or a  
8 tobacco quota owner;

9 (t) Exclude all income from all sources for active duty and reserve members and  
10 officers of the Armed Forces of the United States or National Guard who are  
11 killed in the line of duty, for the year during which the death occurred and the  
12 year prior to the year during which the death occurred. For the purposes of this  
13 paragraph, "all income from all sources" shall include all federal and state  
14 death benefits payable to the estate or any beneficiaries;~~and~~

15 (u) For taxable years beginning on or after January 1, 2010, exclude all military  
16 pay received by active duty members of the Armed Forces of the United  
17 States, members of reserve components of the Armed Forces of the United  
18 States, and members of the National Guard, including compensation for state  
19 active duty as described in KRS 38.205;

20 (v) For taxable years beginning on or after January 1, 2018, but before  
21 January 1, 2022, exclude up to five thousand dollars (\$5,000) per taxpayer  
22 and dependent, up to ten thousand dollars (\$10,000) per return filed, of  
23 qualified contributions to the Kentucky Educational Savings Plan Trust  
24 described in KRS 164A.300 to 164A.380;

25 (w) Include:

26 1. Contributions, to the extent the contributions were previously  
27 excluded from income pursuant to paragraph (v) of this subsection;

1 and

2 2. Earnings;

3 refunded to a participant in the Kentucky Educational Savings Plan Trust  
 4 or used by a participant for purposes other than reimbursement for  
 5 qualified education expenses, as reported pursuant to Section 3 of this Act;

6 (x) For taxable years beginning on or after January 1, 2018, and before  
 7 January 1, 2022, exclude up to five thousand dollars (\$5,000) for the  
 8 taxpayer and each dependent, up to ten thousand dollars (\$10,000) per  
 9 return filed, of qualified contributions to a STABLE Kentucky account as  
 10 defined in Section 4 of this Act;

11 (y) Include:

12 1. Contributions, to the extent the contributions were previously  
 13 excluded from income pursuant to paragraph (x) of this subsection;

14 and

15 2. Earnings;

16 refunded to a participant in the STABLE Kentucky account or used by a  
 17 participant for purposes other than reimbursement for qualified disability  
 18 expenses as that term is defined by 26 U.S.C. sec. 529A; and

19 (z) For taxable years beginning on or after January 1, 2018, and before  
 20 January 1, 2022, exclude eligible education expenses for eligible  
 21 grandchildren as described in Section 5 of this Act;

22 (11) "Net income," in the case of taxpayers other than corporations, means adjusted  
 23 gross income as defined in subsection (10) of this section, minus:

24 (a) The deduction allowed by KRS 141.0202;

25 (b) Any amount paid for vouchers or similar instruments that provide health  
 26 insurance coverage to employees or their families;

27 (c) For taxable years beginning on or after January 1, 2010, the amount of

1 domestic production activities deduction calculated at six percent (6%) as  
2 allowed in Section 199(a)(2) of the Internal Revenue Code for taxable years  
3 beginning before 2010; and

4 (d) 1. All the deductions allowed individuals by Chapter 1 of the Internal  
5 Revenue Code as modified by KRS 141.0101 except:

6 a. Any deduction allowed by the Internal Revenue Code for state or  
7 foreign taxes measured by gross or net income, including state and  
8 local general sales taxes allowed in lieu of state and local income  
9 taxes under the provisions of Section 164(b)(5) of the Internal  
10 Revenue Code;

11 b. Any deduction allowed by the Internal Revenue Code for amounts  
12 allowable under KRS 140.090(1)(h) in calculating the value of the  
13 distributive shares of the estate of a decedent, unless there is filed  
14 with the income return a statement that such deduction has not  
15 been claimed under KRS 140.090(1)(h);

16 c. The deduction for personal exemptions allowed under Section 151  
17 of the Internal Revenue Code and any other deductions in lieu  
18 thereof;

19 d. For taxable years beginning on or after January 1, 2010, the  
20 domestic production activities deduction allowed under Section  
21 199 of the Internal Revenue Code;

22 e. Any deduction for amounts paid to any club, organization, or  
23 establishment which has been determined by the courts or an  
24 agency established by the General Assembly and charged with  
25 enforcing the civil rights laws of the Commonwealth, not to afford  
26 full and equal membership and full and equal enjoyment of its  
27 goods, services, facilities, privileges, advantages, or



1 accommodations to any person because of race, color, religion,  
2 national origin, or sex, except nothing shall be construed to deny a  
3 deduction for amounts paid to any religious or denominational  
4 club, group, or establishment or any organization operated solely  
5 for charitable or educational purposes which restricts membership  
6 to persons of the same religion or denomination in order to  
7 promote the religious principles for which it is established and  
8 maintained;

9 f. Any deduction directly or indirectly allocable to income which is  
10 either exempt from taxation or otherwise not taxed under this  
11 chapter;

12 g. The itemized deduction limitation established in 26 U.S.C. sec. 68  
13 shall be determined using the applicable amount from 26 U.S.C.  
14 sec. 68 as it existed on December 31, 2006; and

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

18 2. Nothing in this chapter shall be construed to permit the same item to be  
19 deducted more than once;

20 (12) "Gross income," in the case of corporations, means "gross income" as defined in  
21 Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and  
22 adjusted 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 received after December 31, 1969;

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 in the gross income of lessors income tax payments made by lessees  
8 to lessors, under the provisions of Section 110 of the Internal Revenue Code,  
9 and exclude such payments from the gross income of lessees;
- 10 (f) Include the amount calculated under KRS 141.205;
- 11 (g) Ignore the provisions of Section 281 of the Internal Revenue Code in  
12 computing gross income;
- 13 (h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal  
14 Revenue Code);
- 15 (i) Exclude any amount received by a producer of tobacco or a tobacco quota  
16 owner from the multistate settlement with the tobacco industry, known as the  
17 Master Settlement Agreement, signed on November 22, 1998;
- 18 (j) Exclude any amount received from the secondary settlement fund, referred to  
19 as "Phase II," established by tobacco companies to compensate tobacco  
20 farmers and quota owners for anticipated financial losses caused by the  
21 national tobacco settlement;
- 22 (k) Exclude any amount received from funds of the Commodity Credit  
23 Corporation for the Tobacco Loss Assistance Program as a result of a  
24 reduction in the quantity of tobacco quota allotted;
- 25 (l) Exclude any amount received as a result of a tobacco quota buydown program  
26 that all quota owners and growers are eligible to participate in;
- 27 (m) For taxable years beginning after December 31, 2004, and before January 1,

1           2007, exclude the distributive share income or loss received from a  
2           corporation defined in subsection (24)(b) of this section whose income has  
3           been subject to the tax imposed by KRS 141.040. The exclusion provided in  
4           this paragraph shall also apply to a taxable year that begins prior to January 1,  
5           2005, if the tax imposed by KRS 141.040 is paid on the distributive share  
6           income by a corporation defined in subparagraphs 2. to 8. of subsection  
7           (24)(b) of this section with a return filed for a period of less than twelve (12)  
8           months that begins on or after January 1, 2005, and ends on or before  
9           December 31, 2005. This paragraph shall not be used to delay payment of the  
10          tax imposed by KRS 141.040; and

11          (n) Exclude state Phase II payments received by a producer of tobacco or a  
12          tobacco quota owner;

13          (13) "Net income," in the case of corporations, means "gross income" as defined in  
14          subsection (12) of this section minus:

15          (a) The deduction allowed by KRS 141.0202;

16          (b) Any amount paid for vouchers or similar instruments that provide health  
17          insurance coverage to employees or their families;

18          (c) For taxable years beginning on or after January 1, 2010, the amount of  
19          domestic production activities deduction calculated at six percent (6%) as  
20          allowed in Section 199(a)(2) of the Internal Revenue Code for taxable years  
21          beginning before 2010; and

22          (d) All the deductions from gross income allowed corporations by Chapter 1 of  
23          the Internal Revenue Code and as modified by KRS 141.0101, except:

24                  1. Any deduction for a state tax which is computed, in whole or in part, by  
25                  reference to gross or net income and which is paid or accrued to any  
26                  state of the United States, the District of Columbia, the Commonwealth  
27                  of Puerto Rico, any territory or possession of the United States, or to any

- 1 foreign country or political subdivision thereof;
- 2 2. The deductions contained in Sections 243, 244, 245, and 247 of the  
3 Internal Revenue Code;
- 4 3. The provisions of Section 281 of the Internal Revenue Code shall be  
5 ignored in computing net income;
- 6 4. Any deduction directly or indirectly allocable to income which is either  
7 exempt from taxation or otherwise not taxed under the provisions of this  
8 chapter, and nothing in this chapter shall be construed to permit the  
9 same item to be deducted more than once;
- 10 5. Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of  
11 the Internal Revenue Code);
- 12 6. Any deduction for amounts paid to any club, organization, or  
13 establishment which has been determined by the courts or an agency  
14 established by the General Assembly and charged with enforcing the  
15 civil rights laws of the Commonwealth, not to afford full and equal  
16 membership and full and equal enjoyment of its goods, services,  
17 facilities, privileges, advantages, or accommodations to any person  
18 because of race, color, religion, national origin, or sex, except nothing  
19 shall be construed to deny a deduction for amounts paid to any religious  
20 or denominational club, group, or establishment or any organization  
21 operated solely for charitable or educational purposes which restricts  
22 membership to persons of the same religion or denomination in order to  
23 promote the religious principles for which it is established and  
24 maintained;
- 25 7. Any deduction prohibited by KRS 141.205;
- 26 8. Any dividends-paid deduction of any captive real estate investment trust;
- 27 and

- 1           9. For taxable years beginning on or after January 1, 2010, the domestic  
2           production activities deduction allowed under Section 199 of the  
3           Internal Revenue Code;
- 4 (14) (a) "Taxable net income," in the case of corporations that are taxable in this state,  
5           means "net income" as defined in subsection (13) of this section;
- 6           (b) "Taxable net income," in the case of corporations that are taxable in this state  
7           and taxable in another state, means "net income" as defined in subsection (13)  
8           of this section and as allocated and apportioned under KRS 141.120. A  
9           corporation is taxable in another state if, in any state other than Kentucky, the  
10          corporation is required to file a return for or pay a net income tax, franchise  
11          tax measured by net income, franchise tax for the privilege of doing business,  
12          or corporate stock tax;
- 13          (c) "Taxable net income," in the case of homeowners' associations as defined in  
14          Section 528(c) of the Internal Revenue Code, means "taxable income" as  
15          defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the  
16          provisions of subsection (3) of this section, the Internal Revenue Code  
17          sections referred to in this paragraph shall be those code sections in effect for  
18          the applicable tax year; and
- 19          (d) "Taxable net income," in the case of a corporation that meets the requirements  
20          established under Section 856 of the Internal Revenue Code to be a real estate  
21          investment trust, means "real estate investment trust taxable income" as  
22          defined in Section 857(b)(2) of the Internal Revenue Code, except that a  
23          captive real estate investment trust shall not be allowed any deduction for  
24          dividends paid;
- 25 (15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue  
26          Code;
- 27 (16) "Taxable year" means the calendar year or fiscal year ending during such calendar

- 1 year, upon the basis of which net income is computed, and in the case of a return  
2 made for a fractional part of a year under the provisions of this chapter or under  
3 regulations prescribed by the commissioner, "taxable year" means the period for  
4 which the return is made;
- 5 (17) "Resident" means an individual domiciled within this state or an individual who is  
6 not domiciled in this state, but maintains a place of abode in this state and spends in  
7 the aggregate more than one hundred eighty-three (183) days of the taxable year in  
8 this state;
- 9 (18) "Nonresident" means any individual not a resident of this state;
- 10 (19) "Employer" means "employer" as defined in Section 3401(d) of the Internal  
11 Revenue Code;
- 12 (20) "Employee" means "employee" as defined in Section 3401(c) of the Internal  
13 Revenue Code;
- 14 (21) "Number of withholding exemptions claimed" means the number of withholding  
15 exemptions claimed in a withholding exemption certificate in effect under KRS  
16 141.325, except that if no such certificate is in effect, the number of withholding  
17 exemptions claimed shall be considered to be zero;
- 18 (22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue  
19 Code and includes other income subject to withholding as provided in Section  
20 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;
- 21 (23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the  
22 Internal Revenue Code;
- 23 (24) (a) For taxable years beginning before January 1, 2005, and after December 31,  
24 2006, "corporation" means "corporation" as defined in Section 7701(a)(3) of  
25 the Internal Revenue Code; and
- 26 (b) For taxable years beginning after December 31, 2004, and before January 1,  
27 2007, "corporations" means:

- 1           1.    "Corporations" as defined in Section 7701(a)(3) of the Internal Revenue
- 2                    Code;
- 3           2.    S corporations as defined in Section 1361(a) of the Internal Revenue
- 4                    Code;
- 5           3.    A foreign limited liability company as defined in KRS 275.015;
- 6           4.    A limited liability company as defined in KRS 275.015;
- 7           5.    A professional limited liability company as defined in KRS 275.015;
- 8           6.    A foreign limited partnership as defined in KRS 362.2-102(9);
- 9           7.    A limited partnership as defined in KRS 362.2-102(14);
- 10          8.    A limited liability partnership as defined in KRS 362.155(7) or in 362.1-
- 11                    101(7) or (8);
- 12          9.    A real estate investment trust as defined in Section 856 of the Internal
- 13                    Revenue Code;
- 14          10.   A regulated investment company as defined in Section 851 of the
- 15                    Internal Revenue Code;
- 16          11.   A real estate mortgage investment conduit as defined in Section 860D of
- 17                    the Internal Revenue Code;
- 18          12.   A financial asset securitization investment trust as defined in Section
- 19                    860L of the Internal Revenue Code; and
- 20          13.   Other similar entities created with limited liability for their partners,
- 21                    members, or shareholders.

22           For purposes of this paragraph, "corporation" shall not include any publicly  
23           traded partnership as defined by Section 7704(b) of the Internal Revenue Code  
24           that is treated as a partnership for federal tax purposes under Section 7704(c)  
25           of the Internal Revenue Code or its publicly traded partnership affiliates. As  
26           used in this paragraph, "publicly traded partnership affiliates" shall include  
27           any limited liability company or limited partnership for which at least eighty

1           percent (80%) of the limited liability company member interests or limited  
2           partner interests are owned directly or indirectly by the publicly traded  
3           partnership;

4   (25) "Doing business in this state" includes but is not limited to:

- 5           (a) Being organized under the laws of this state;
- 6           (b) Having a commercial domicile in this state;
- 7           (c) Owning or leasing property in this state;
- 8           (d) Having one (1) or more individuals performing services in this state;
- 9           (e) Maintaining an interest in a pass-through entity doing business in this state;
- 10          (f) Deriving income from or attributable to sources within this state, including  
11           deriving income directly or indirectly from a trust doing business in this state,  
12           or deriving income directly or indirectly from a single-member limited  
13           liability company that is doing business in this state and is disregarded as an  
14           entity separate from its single member for federal income tax purposes; or
- 15          (g) Directing activities at Kentucky customers for the purpose of selling them  
16           goods or services.

17          Nothing in this subsection shall be interpreted in a manner that goes beyond the  
18          limitations imposed and protections provided by the United States Constitution or  
19          Pub. L. No. 86-272;

20   (26) "Pass-through entity" means any partnership, S corporation, limited liability  
21          company, limited liability partnership, limited partnership, or similar entity  
22          recognized by the laws of this state that is not taxed for federal purposes at the  
23          entity level, but instead passes to each partner, member, shareholder, or owner their  
24          proportionate share of income, deductions, gains, losses, credits, and any other  
25          similar attributes;

26   (27) "S corporation" means "S corporation" as defined in Section 1361(a) of the Internal  
27          Revenue Code;



1 (28) "Limited liability pass-through entity" means any pass-through entity that affords  
2 any of its partners, members, shareholders, or owners, through function of the laws  
3 of this state or laws recognized by this state, protection from general liability for  
4 actions of the entity; and

5 (29) "Captive real estate investment trust" means a real estate investment trust as defined  
6 in Section 856 of the Internal Revenue Code that meets the following requirements:

7 (a) 1. The shares or other ownership interests of the real estate investment trust  
8 are not regularly traded on an established securities market; or

9 2. The real estate investment trust does not have enough shareholders or  
10 owners to be required to register with the Securities and Exchange  
11 Commission; and

12 (b) 1. The maximum amount of stock or other ownership interest that is owned  
13 or constructively owned by a corporation equals or exceeds:

14 a. Twenty-five percent (25%), if the corporation does not occupy  
15 property owned, constructively owned, or controlled by the real  
16 estate investment trust; or

17 b. Ten percent (10%), if the corporation occupies property owned,  
18 constructively owned, or controlled by the real estate investment  
19 trust.

20 The total ownership interest of a corporation shall be determined by  
21 aggregating all interests owned or constructively owned by a  
22 corporation;

23 2. For the purposes of this paragraph:

24 a. "Corporation" means a corporation taxable under KRS 141.040,  
25 and includes an affiliated group as defined in KRS 141.200, that is  
26 required to file a consolidated return pursuant to the provisions of  
27 KRS 141.200; and

1           b. "Owned or constructively owned" means owning shares or having  
 2           an ownership interest in the real estate investment trust, or owning  
 3           an interest in an entity that owns shares or has an ownership  
 4           interest in the real estate investment trust. Constructive ownership  
 5           shall be determined by looking across multiple layers of a  
 6           multilayer pass-through structure; and

7           (c) The real estate investment trust is not owned by another real estate investment  
 8           trust.

9           ➔Section 2. KRS 164A.370 is amended to read as follows:

10          (1) The property of the trust and its income from operations shall be exempt from all  
 11          taxation by the Commonwealth of Kentucky or any of its political subdivisions.

12          (2) Investment income earned on contributions paid by any participant and used for  
 13          higher education costs defined in KRS 164A.305(6)~~[- or refunded under KRS~~  
 14          ~~164A.350(8)(a) or (b)]~~ shall not be subject to Kentucky income tax by either a  
 15          participant or any beneficiary of a participation agreement, the purposes for which  
 16          the investment income was accrued being deemed and declared to be entirely public  
 17          in nature.

18          (3) ***Investment income*** earnings that are not used for higher education costs as defined  
 19          in KRS 164A.305(6) and are refunded shall be subject to Kentucky income tax,  
 20          except for earnings ***that are:***

21          (a) Refunded pursuant to KRS 164A.350(8)(a) or (b); ***and***

22          (b) ***Attributable to contributions that were not deducted pursuant to subsection***  
 23          ***(10)(v) of Section 1 of this Act.***

24          (4) ***Contributions that were deducted pursuant to subsection (10)(v) of Section 1 of***  
 25          ***this Act and that are refunded for any reason shall be subject to Kentucky income***  
 26          ***tax.***

27          ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO

1 READ AS FOLLOWS:

2 (1) Refunds of amounts in any participant account, or amounts paid to any  
3 participant or beneficiary for purposes other than for payment or reimbursement  
4 for higher education costs, shall be reported to the Department of Revenue. The  
5 report shall identify:

6 (a) The name, address, and identification number of the person receiving the  
7 payment or refund;

8 (b) The reason for the refund or payment;

9 (c) The total amount of the refund or payment;

10 (d) Any portion of the refund or payment resulting from contributions that  
11 were deductible pursuant to subsection (10)(v) of Section 1 of this Act; and

12 (e) Any portion of the refund or payment that represents earnings of the  
13 account that are attributable to contributions that were deductible pursuant  
14 to subsection (10)(v) of Section 1 of this Act.

15 (2) On or before December 1, 2019, and annually thereafter as long as either of the  
16 deductions in paragraphs (v) and (x) of subsection (10) of Section 1 of this Act is  
17 permitted, the Department of Revenue shall report to the Legislative Research  
18 Commission:

19 (a) The cumulative amount of tax deductions under each of paragraphs (v) and  
20 (x) of subsection (10) of Section 1 of this Act claimed by taxpayers for each  
21 taxable year;

22 (b) The number of taxpayers that claimed the deduction under each of  
23 paragraphs (v) and (x) of subsection (10) of Section 1 of this Act for each  
24 taxable year;

25 (c) The total amount by which taxpayers reduced their income tax liability by  
26 claiming the deduction under each of paragraphs (v) and (x) of subsection  
27 (10) of Section 1 of this Act for each taxable year;

1 (d) Based on the mailing address of the return, the total amount of deductions  
 2 under each of paragraphs (v) and (x) of subsection (10) of Section 1 of this  
 3 Act claimed by county; and

4 (e) Based on ranges of adjusted gross income of no larger than five thousand  
 5 dollars (\$5,000), the total amount of deductions claimed under each of  
 6 paragraphs (v) and)(x) of subsection (10) of Section 1 of this Act for each  
 7 adjusted gross income range.

8 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO  
 9 READ AS FOLLOWS:

10 (1) As used in this section, "STABLE Kentucky account" means an account  
 11 established by or for the benefit of an eligible individual, as that term is defined  
 12 by 26 U.S.C. sec. 529A, and established and maintained by the Commonwealth of  
 13 Kentucky or pursuant to any agreement between the Commonwealth and any  
 14 other state.

15 (2) A STABLE Kentucky account and any investment income earned on a STABLE  
 16 Kentucky account shall be exempt from all taxation by the Commonwealth of  
 17 Kentucky or any of its political subdivisions.

18 (3) (a) Distributions from a STABLE Kentucky account shall not be subject to  
 19 Kentucky income tax if the distributions are for qualified disability expenses  
 20 as defined by 26 U.S.C. sec. 529A.

21 (b) A rollover of funds, where allowed by federal law, from one (1) STABLE  
 22 Kentucky account to another STABLE Kentucky account or to an account  
 23 established under the Kentucky Educational Savings Plan Trust described  
 24 in KRS 164A.300 to 164A.380 shall not be treated as a distribution so long  
 25 as:

26 1. The funds are being transferred into an account for:

27 a. The same eligible individual; or

1                   **b. An eligible individual who is a member of the same household;**  
2                                   **and**

3                   **2. The amount is paid into the new account within sixty (60) days of**  
4                                   **being removed from the original account.**

5                   **(c) Any change in the designated beneficiary of a STABLE Kentucky account**  
6                                   **shall not be treated as a distribution for purposes of taxation so long as the**  
7                                   **new beneficiary is a member of the same household.**

8                   ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO  
9 READ AS FOLLOWS:

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

11                   **(a) "Eligible education expenses" means:**

12                                   **1. Expenses for textbooks, including books and other instructional**  
13                                   **materials and equipment purchased or leased for use in elementary or**  
14                                   **secondary schools in teaching only those subjects legally and**  
15                                   **commonly taught in public elementary and secondary schools in this**  
16                                   **state. However, any books or materials:**

17                                   **a. Used in the teaching of religious tenets, doctrines, or worship;**

18                                   **b. The purpose of which is to instill religious tenets, doctrines, or**  
19                                   **worship; or**

20                                   **c. For extracurricular activities, including sporting events, musical**  
21                                   **or dramatic events, speech activities, driver's education, or**  
22                                   **similar programs;**

23                                   **shall not be considered eligible education expenses;**

24                                   **2. A maximum expense of one thousand dollars (\$1,000) per return for**  
25                                   **personal computer hardware, excluding single-purpose processors,**  
26                                   **and educational software that helps an eligible grandchild to improve**  
27                                   **knowledge of core curriculum areas or to expand knowledge and skills**

1           under required academic standards and is purchased for use in the  
2           eligible grandchild's home and not used in a trade or business  
3           regardless of whether the computer is required by the dependent's  
4           school; and

5           3. Fees charged by elementary or secondary schools, including but not  
6           limited to fees for textbooks; and

7           (b) "Eligible grandchild" means a grandchild whose primary caregiver is the  
8           taxpayer and who is the issue of the taxpayer's:

9           1. Child by blood;

10          2. Stepchild;

11          3. Child adopted during adulthood who was reared by the taxpayer  
12          during infancy; or

13          4. Child adopted during infancy.

14          (2) In computing adjusted gross income under the provisions of subsection (10) of  
15          Section 1 of this Act, there shall be allowed as a deduction the amounts paid to  
16          others for each eligible grandchild for eligible education expenses.

17          (3) The maximum deduction under this section shall be:

18                 1. One thousand six hundred twenty-five dollars (\$1,625) for each  
19                 eligible grandchild in kindergarten through grade six (6); and

20                 2. Two thousand five hundred dollars (\$2,500) for each eligible  
21                 grandchild in grades seven (7) through twelve (12).

22          (4) On or before December 1, 2019, and annually thereafter as long as the deduction  
23          in subsection (10)(z) of Section 1 of this Act is permitted, the Department of  
24          Revenue shall report to the Legislative Research Commission:

25                 (a) The cumulative amount of tax deductions under subsection (10)(z) of  
26                 Section 1 of this Act claimed by taxpayers for each taxable year;

27                 (b) The number of taxpayers that claimed the deduction under subsection

- 1           *(10)(z) of Section 1 of this Act for each taxable year;*  
 2           *(c) The total amount by which taxpayers reduced their income tax liability by*  
 3           *claiming the deduction under subsection (10)(z) of Section 1 of this Act for*  
 4           *each taxable year;*  
 5           *(d) Based on the mailing address of the return, the total amount of deductions*  
 6           *under subsection (10)(z) of Section 1 of this Act claimed by county; and*  
 7           *(e) Based on ranges of adjusted gross income of no larger than five thousand*  
 8           *dollars (\$5,000), the total amount of deductions claimed under subsection*  
 9           *(10)(z) of Section 1 of this Act for each adjusted gross income range.*

10           ➔Section 6. KRS 131.190 is amended to read as follows:

11           (1)~~[(a)]~~ No present or former commissioner or employee of the department ~~[of~~  
 12           ~~Revenue]~~, present or former member of a county board of assessment appeals,  
 13           present or former property valuation administrator or employee, present or former  
 14           secretary or employee of the Finance and Administration Cabinet, former secretary  
 15           or employee of the Revenue Cabinet, or any other person, shall intentionally and  
 16           without authorization inspect or divulge any information acquired by him of the  
 17           affairs of any person, or information regarding the tax schedules, returns, or reports  
 18           required to be filed with the department or other proper officer, or any information  
 19           produced by a hearing or investigation, insofar as the information may have to do  
 20           with the affairs of the person's business.

21           (2)~~[(b)]~~ The prohibition established by *subsection (1)* ~~[paragraph (a)]~~ of this *section*  
 22           *shall* ~~[subsection does]~~ not extend to:

23           *(a)* ~~[1-]~~ Information required in prosecutions for making false reports or returns  
 24           of property for taxation, or any other infraction of the tax laws;

25           *(b)* ~~[2-]~~ Any matter properly entered upon any assessment record, or in any way  
 26           made a matter of public record;

27           *(c)* ~~[3-]~~ Furnishing any taxpayer or his properly authorized agent with

1 information respecting his own return;

2 ~~(d)~~<sup>[4.]</sup> Testimony provided by the commissioner or any employee of the  
3 department~~[of Revenue]~~ in any court, or the introduction as evidence of  
4 returns or reports filed with the department, in an action for violation of state  
5 or federal tax laws or in any action challenging state or federal tax laws;

6 ~~(e)~~<sup>[5.]</sup> Providing an owner of unmined coal, oil or gas reserves, and other  
7 mineral or energy resources assessed under KRS 132.820~~[(1)]~~, or owners of  
8 surface land under which the unmined minerals lie, factual information about  
9 the owner's property derived from third-party returns filed for that owner's  
10 property, under the provisions of KRS 132.820~~[(2)]~~, that is used to determine  
11 the owner's assessment. This information shall be provided to the owner on a  
12 confidential basis, and the owner shall be subject to the penalties provided in  
13 KRS 131.990(2). The third-party filer shall be given prior notice of any  
14 disclosure of information to the owner that was provided by the third-party  
15 filer;

16 ~~(f)~~<sup>[6.]</sup> Providing to a third-party purchaser pursuant to an order entered in a  
17 foreclosure action filed in a court of competent jurisdiction, factual  
18 information related to the owner or lessee of coal, oil, gas reserves, or any  
19 other mineral resources assessed under KRS 132.820~~[(1)]~~. The department  
20 may promulgate an administrative regulation establishing a fee schedule for  
21 the provision of the information described in this ~~paragraph~~<sup>[subparagraph]</sup>.  
22 Any fee imposed shall not exceed the greater of the actual cost of providing  
23 the information or ten dollars (\$10);~~or~~

24 ~~(g)~~<sup>[7.]</sup> Providing information to a licensing agency, the Transportation Cabinet,  
25 or the Kentucky Supreme Court under KRS 131.1817;

26 **(h) Statistics of gasoline and special fuels gallonage reported to the department**  
27 **under KRS 138.210 to 138.448;**



- 1        (i) Statistics of crude oil reported to the department under the crude oil excise  
2        tax requirements of KRS Chapter 137;
- 3        (j) Statistics of natural gas production reported to the department under the  
4        natural resources severance tax requirements of KRS Chapter 143A;
- 5        (k) Those portions of mine maps submitted by taxpayers to the department  
6        pursuant to KRS Chapter 132 for ad valorem tax purposes that depict the  
7        boundaries of mined-out parcel areas. These electronic maps shall not be  
8        relied upon to determine actual boundaries of mined-out parcel areas.  
9        Property boundaries contained in mine maps required under KRS Chapters  
10       350 and 352 shall not be construed to constitute land surveying or boundary  
11       surveys defined by KRS 322.010 and any administrative regulations;
- 12       (l) Providing to other state agencies the report, filed with the department by an  
13       employer, listing the policy number and the name and address of the  
14       employer's workers' compensation insurance carrier under Section 7 of this  
15       Act;
- 16       (m) The name and address of a cigarette stamping agent or distributor and the  
17       number of sticks by brand name that have been purchased from a  
18       nonparticipating manufacturer and have been stamped with Kentucky  
19       stamps by that agent or distributor provided by Section 8 of this Act;
- 20       (n) A list of taxpayers that owe delinquent taxes or fees administered by the  
21       department provided by Section 9 of this Act;
- 22       (o) Providing any utility gross receipts license tax return information that is  
23       necessary to administer the provisions of KRS 160.613 to 160.617 to  
24       applicable school districts on a confidential basis;
- 25       (p) Information made available by the department, for official use only and on  
26       a confidential basis, to the proper officer, agency, board, or commission of  
27       this state, any Kentucky city or county, any other state, or the federal

1 government, under reciprocal agreements whereby the department shall  
 2 receive similar or useful information in return; or

3 (a) Providing information to the Legislative Research Commission under:

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

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

7 3. KRS 141.437 for purposes of the ENERGY STAR home and the  
 8 ENERGY STAR manufactured home credits;

9 4. Section 11 of this Act for purposes of the distilled spirits credit;

10 5. Section 3 of this Act for purposes of the 529 plan deduction or the  
 11 STABLE plan deduction; or

12 6. Section 5 of this Act for purposes of the eligible education expense  
 13 deduction.

14 ~~(3) [(2) — The commissioner shall make available any information for official use only~~  
 15 ~~and on a confidential basis to the proper officer, agency, board or commission of~~  
 16 ~~this state, any Kentucky county, any Kentucky city, any other state, or the federal~~  
 17 ~~government, under reciprocal agreements whereby the department shall receive~~  
 18 ~~similar or useful information in return.~~

19 ~~(3) — Statistics of tax paid gasoline gallonage reported monthly to the department of~~  
 20 ~~Revenue under the gasoline excise tax law may be made public by the department.~~

21 ~~(4) Access to and inspection of information received from the Internal Revenue Service~~  
 22 ~~is for department [of Revenue] use only, and is restricted to tax administration~~  
 23 ~~purposes. [Notwithstanding the provisions of this section to the contrary,]~~

24 Information received from the Internal Revenue Service shall not be made available  
 25 to any other agency of state government, or any county, city, or other state, and shall  
 26 not be inspected intentionally and without authorization by any present secretary or  
 27 employee of the Finance and Administration Cabinet, commissioner or employee of

1 the department~~[of Revenue]~~, or any other person.

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

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

16 ~~(7) Notwithstanding any other provision of the Kentucky Revised Statutes, The~~  
17 ~~department may divulge to the applicable school districts on a confidential basis any~~  
18 ~~utility gross receipts license tax return information that is necessary to administer~~  
19 ~~the provisions of KRS 160.613 to 160.617.]~~

20 ➔Section 7. KRS 131.135 is amended to read as follows:

21 ~~[(1)]~~Each employer subject to KRS Chapter 342 shall file annually with the  
22 department~~[of Revenue]~~, in accordance with administrative regulations, a report  
23 providing the policy number and the name and address of the employer's workers'  
24 compensation insurance carrier.}

25 ~~(2) The report may be made available to other state agencies notwithstanding the~~  
26 ~~confidentiality provisions of KRS 131.190.]~~

27 ➔Section 8. KRS 131.618 is amended to read as follows:

1 (1) ~~[Notwithstanding KRS 131.190, ]~~The commissioner is authorized to disclose to the  
2 Attorney General the name and address of a stamping agent or distributor and the  
3 number of sticks by brand name that have been purchased from a nonparticipating  
4 manufacturer and have been stamped with Kentucky stamps by that agent or  
5 distributor. The Attorney General may share this information with federal, other  
6 state, or local agencies only for the purposes of enforcement of KRS 131.600 to  
7 131.630 or corresponding laws of other states. The Attorney General is further  
8 authorized to disclose to a nonparticipating manufacturer or its importers this  
9 information that has been provided by a stamping agent regarding the purchases  
10 from that nonparticipating manufacturer or its importers. This information provided  
11 by a stamping agent may be used in any enforcement action against the  
12 nonparticipating manufacturer or its importers by the Attorney General.

13 (2) In addition to the information required to be submitted pursuant to KRS 131.608,  
14 131.614, and 131.620, the Attorney General or the commissioner may require a  
15 stamping agent, distributor, participating manufacturer, nonparticipating  
16 manufacturer, or a nonparticipating manufacturer's importers to submit any  
17 additional information including but not limited to samples of the packaging or  
18 labeling of each brand family as is necessary to enable the Attorney General to  
19 determine whether the participating manufacturer or the nonparticipating  
20 manufacturer and its importers are in compliance with KRS 131.600 to 131.630.

21 ➔Section 9. KRS 131.650 is amended to read as follows:

22 (1) ~~[Notwithstanding the provisions of KRS 131.190 or any other confidentiality law to~~  
23 ~~the contrary, ]~~The department may publish a list or lists of taxpayers that owe  
24 delinquent taxes or fees administered by the department~~[of Revenue]~~, and that meet  
25 the requirements of KRS 131.652.

26 (2) For purposes of this section, a taxpayer may be included on a list if:

27 (a) The taxes or fees owed remain unpaid at least forty-five (45) days after the

- 1            dates they became due and payable; and
- 2            (b) A tax lien or judgment lien has been filed of public record against the taxpayer
- 3            before notice is given under KRS 131.654.
- 4            (3) In the case of listed taxpayers that are business entities, the department ~~of~~
- 5            ~~Revenue~~ may also list the names of responsible persons assessed pursuant to KRS
- 6            136.565, 138.885, 139.185, 141.340, and 142.357 for listed liabilities, who are not
- 7            protected from publication by subsection (2) of this section, and for whom the
- 8            requirements of KRS 131.652 are satisfied with regard to the personal assessment.
- 9            (4) Before any list is published under this section, the department shall document that
- 10           each of the conditions for publication as provided in this section has been satisfied,
- 11           and that procedures were followed to ensure the accuracy of the list and notice was
- 12           given to the affected taxpayers.

13           ➔Section 10. KRS 131.990 is amended to read as follows:

- 14           (1) Any person who fails or refuses to obey a subpoena or order of the Kentucky Board
- 15           of Tax Appeals made pursuant to KRS Chapter 13B shall be fined not less than
- 16           twenty-five dollars (\$25) nor more than five hundred dollars (\$500).
- 17           (2) (a) Any person who violates the intentional unauthorized inspection provisions of
- 18           KRS 131.190(1) shall be fined not more than five hundred dollars (\$500) or
- 19           imprisoned for not more than six (6) months, or both.
- 20           (b) Any person who violates the provisions of KRS 131.190(1) by divulging
- 21           confidential taxpayer information shall be fined not more than one thousand
- 22           dollars (\$1,000) or imprisoned for not more than one (1) year, or both.
- 23           (c) Any person who violates the intentional unauthorized inspection provisions of
- 24           KRS 131.190~~(3)~~~~(4)~~ shall be fined not more than one thousand dollars
- 25           (\$1,000) or imprisoned for not more than one (1) year, or both.
- 26           (d) Any person who violates the provisions of KRS 131.190~~(3)~~~~(4)~~ by divulging
- 27           confidential taxpayer information shall be fined not more than five thousand

1           dollars (\$5,000) or imprisoned for not more than five (5) years, or both.

2           (e) Any present secretary or employee of the Finance and Administration Cabinet,  
3           commissioner or employee of the department, member of a county board of  
4           assessment appeals, property valuation administrator or employee, or any  
5           other person, who violates the provisions of KRS 131.190(1) or ~~(3)~~~~(4)~~ may,  
6           in addition to the penalties imposed under this subsection, be disqualified and  
7           removed from office or employment.

8           (3) Any person who willfully fails to comply with the rules and regulations  
9           promulgated by the department for the administration of delinquent tax collections  
10          shall be fined not less than twenty dollars (\$20) nor more than one thousand dollars  
11          (\$1,000).

12          (4) Any person who fails to do any act required or does any act forbidden by KRS  
13          131.210 shall be fined not less than ten dollars (\$10) nor more than five hundred  
14          dollars (\$500).

15          (5) Any person who fails to comply with the provisions of KRS 131.155 shall, unless it  
16          is shown to the satisfaction of the department that the failure is due to reasonable  
17          cause, pay a penalty of one-half of one percent (0.5%) of the amount that should  
18          have been remitted under the provisions of KRS 131.155 for each failure to comply.

19          (6) (a) Any person or financial institution that fails to comply with the provisions of  
20          KRS 131.672 and 131.674 within ninety (90) days after notification by the  
21          department shall, unless the failure is due to reasonable cause as defined in  
22          KRS 131.010, be fined not less than one thousand dollars (\$1,000) and no  
23          more than five thousand dollars (\$5,000) for each full month of  
24          noncompliance. The fine shall begin on the first day of the month beginning  
25          after the expiration of the ninety (90) days.

26          (b) Any financial institution that fails or refuses to comply with the provisions of  
27          KRS 131.672 and 131.674 within one hundred twenty (120) days after the

1 notification by the department shall, unless the failure is due to reasonable  
2 cause as defined in KRS 131.010, forfeit its right to do business within the  
3 Commonwealth, unless and until the financial institution is in compliance.  
4 Upon notification by the department, the commissioner of the Department of  
5 Financial Institutions shall, as applicable, revoke the authority of the financial  
6 institution or its agents to do business in the Commonwealth.

7 (7) Any taxpayer or tax return preparer who fails or refuses to comply with the  
8 provisions of KRS 131.250 or an administrative regulation promulgated under KRS  
9 131.250 shall, unless it is shown to the satisfaction of the department that the failure  
10 is due to reasonable cause, pay a return processing fee of ten dollars (\$10) for each  
11 return not filed as required.

12 ➔Section 11. KRS 141.389 is amended to read as follows:

13 (1) (a) There shall be allowed a nonrefundable and nontransferable credit to each  
14 taxpayer paying the distilled spirits ad valorem tax as follows:

15 1. For taxable years beginning on or after January 1, 2015, and before  
16 December 31, 2015, the credit shall be equal to twenty percent (20%) of  
17 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a  
18 timely basis;

19 2. For taxable years beginning on or after January 1, 2016, and before  
20 December 31, 2016, the credit shall be equal to forty percent (40%) of  
21 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a  
22 timely basis;

23 3. For taxable years beginning on or after January 1, 2017, and before  
24 December 31, 2017, the credit shall be equal to sixty percent (60%) of  
25 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a  
26 timely basis;

27 4. For taxable years beginning on or after January 1, 2018, and before

- 1                   December 31, 2018, the credit shall be equal to eighty percent (80%) of  
2                   the tax assessed under KRS 132.160 and paid under KRS 132.180 on a  
3                   timely basis; and
- 4                   5. For taxable years beginning on or after January 1, 2019, the credit shall  
5                   be equal to one hundred percent (100%) of the tax assessed under KRS  
6                   132.160 and paid under KRS 132.180 on a timely basis.
- 7                   (b) The credit shall be applied both to the income tax imposed under KRS  
8                   141.020 or 141.040 and to the limited liability entity tax imposed under KRS  
9                   141.0401, with the ordering of the credits as provided in KRS 141.0205.
- 10                  (2) The amount of distilled spirits credit allowed under subsection (1) of this section  
11                  shall be used only for capital improvements at the premises of the distiller licensed  
12                  pursuant to KRS Chapter 243. As used in this subsection, "capital improvement"  
13                  means any costs associated with:
- 14                  (a) Construction, replacement, or remodeling of warehouses or facilities;  
15                  (b) Purchases of barrels and pallets used for the storage and aging of distilled  
16                  spirits in maturing warehouses;  
17                  (c) Acquisition, construction, or installation of equipment for the use in the  
18                  manufacture, bottling, or shipment of distilled spirits;  
19                  (d) Addition or replacement of access roads or parking facilities; and  
20                  (e) Construction, replacement, or remodeling of facilities to market or promote  
21                  tourism, including but not limited to a visitor's center.
- 22                  (3) The distilled spirits credit allowed under subsection (1) of this section:
- 23                  (a) May be accumulated for multiple taxable years;  
24                  (b) Shall be claimed on the return of the taxpayer filed for the taxable year during  
25                  which the credits were used pursuant to subsection (2) of this section; and  
26                  (c) Shall not include:
- 27                    1. Any delinquent tax paid to the Commonwealth; or



- 1           2. Any interest, fees, or penalty paid to the Commonwealth.
- 2 (4) (a) Before the distilled spirits credit shall be allowed on any return, the capital  
3 improvements required by subsection (2) of this section shall be completed  
4 and specifically associated with the credit allowed on the return.
- 5 (b) The amount of distilled spirits credit allowed shall be recaptured if the capital  
6 improvement associated with the credit is sold or otherwise disposed of prior  
7 to the exhaustion of the useful life of the asset for Kentucky depreciation  
8 purposes.
- 9 (c) If the allowed credit is associated with multiple capital improvements, and not  
10 all capital improvements are sold or otherwise disposed of, the distilled spirits  
11 credit shall be prorated based on the cost of the capital improvement sold over  
12 the total cost of all improvements associated with the credit.
- 13 (5) If the taxpayer is a pass-through entity, the taxpayer may apply the credit against the  
14 limited liability entity tax imposed by KRS 141.0401, and shall pass the credit  
15 through to its members, partners, or shareholders in the same proportion as the  
16 distributive share of income or loss is passed through.
- 17 (6) The department may promulgate an administrative regulation pursuant to KRS  
18 Chapter 13A to implement the allowable credit under this section, require the filing  
19 of forms designed by the department, and require specific information for the  
20 evaluation of the credit taken by any taxpayer.
- 21 (7) ~~Notwithstanding KRS 131.190,~~ No later than September 1, 2016, and annually  
22 thereafter, the department shall report to the Interim Joint Committee on  
23 Appropriations and Revenue:
- 24 (a) The name of each taxpayer taking the credit permitted by subsection (1) of  
25 this section;
- 26 (b) The amount of credit taken by that taxpayer; and
- 27 (c) The type of capital improvement made for which the credit is claimed.

1       ➔Section 12. KRS 131.020 is amended to read as follows:

2       (1) The department~~[of Revenue]~~, headed by a commissioner appointed by the secretary  
3       with the approval of the Governor, shall be organized into the following functional  
4       units:

5       (a) Office of the Commissioner~~[of the Department of Revenue]~~, which shall  
6       consist of:

7           1. The Division of Special Investigations, headed by a division director  
8           who shall report to the commissioner. The division shall investigate  
9           alleged violations of the tax laws and recommend criminal prosecution  
10          of the laws as warranted; and

11          2. The Division of Taxpayer Ombudsman, headed by a division director  
12          who is appointed by the secretary pursuant to KRS 12.050, and who  
13          shall report to the commissioner. The division shall perform those duties  
14          set out in KRS 131.083;

15       (b) Office of Processing and Enforcement, headed by an executive director who  
16       shall report directly to the commissioner. The office shall be responsible for  
17       processing documents, depositing funds, collecting debt payments, and  
18       coordinating, planning, and implementing a data integrity strategy. The office  
19       shall consist of the:

20           1. Division of Operations, which shall be responsible for opening all tax  
21           returns, preparing the returns for data capture, coordinating the data  
22           capture process, depositing receipts, maintaining tax data, and assisting  
23           other state agencies with similar operational aspects as negotiated  
24           between the department and the other agency;

25           2. Division of Collections, which shall be responsible for initiating all  
26           collection enforcement activity related to due and owing tax  
27           assessments, including protest resolution, and for assisting other state

- 1 agencies with similar collection aspects as negotiated between the  
2 department and the other state agency;
- 3 3. Division of Registration and Data Integrity, which shall be responsible  
4 for registering businesses for tax purposes, ensuring that the data entered  
5 into the department's tax systems is accurate and complete, and assisting  
6 the taxing areas in proper procedures to ensure the accuracy of the data  
7 over time; and
- 8 4. Division of Protest Resolution, which shall be responsible for ensuring  
9 an independent review of tax disputes. The division shall administer the  
10 protest functions for the department from office resolution through court  
11 action;
- 12 (c) Office of Property Valuation, ~~the Office of Property Valuation shall be~~  
13 headed by an executive director who shall report directly to the commissioner.  
14 The office shall consist of the:
- 15 1. Division of Local Support, which shall be responsible for providing  
16 supervision, assistance, and training to the property valuation  
17 administrators and sheriffs within the Commonwealth;
- 18 2. Division of State Valuation, which shall be responsible for providing  
19 assessments of public service companies and motor vehicles, and  
20 providing assistance to property valuation administrators and sheriffs  
21 with the administration of tangible and omitted property taxes within the  
22 Commonwealth; and
- 23 3. Division of Minerals Taxation and Geographical Information System  
24 Services, which shall be responsible for providing geographical  
25 information system mapping support, ensuring proper filing of severance  
26 tax returns, ensuring consistency of unmined coal assessments, and  
27 gathering and providing data to properly assess minerals to the property

- 1 valuation administrators within the Commonwealth;
- 2 (d) Office of Sales and Excise Taxes, headed by an executive director who shall  
3 report directly to the commissioner. The office shall administer all matters  
4 relating to sales and use taxes and miscellaneous excise taxes, including but  
5 not limited to technical tax research, compliance, taxpayer assistance, tax-  
6 specific training, and publications. The office shall consist of the:
- 7 1. Division of Sales and Use Tax, which shall administer the sales and use  
8 tax; and
  - 9 2. Division of Miscellaneous Taxes, which shall administer various other  
10 taxes, including but not limited to alcoholic beverage taxes; cigarette  
11 enforcement fees, stamps, meters, and taxes; gasoline tax; bank  
12 franchise tax; inheritance and estate tax; insurance premiums and  
13 insurance surcharge taxes; motor vehicle tire fees and usage taxes; and  
14 special fuels taxes;
- 15 (e) Office of Income Taxation, headed by an executive director who shall report  
16 directly to the commissioner. The office shall administer all matters related to  
17 income and corporation license taxes, including technical tax research,  
18 compliance, taxpayer assistance, tax-specific training, and publications. The  
19 office shall consist of the:
- 20 1. Division of Individual Income Tax, which shall administer the following  
21 taxes or returns: individual income, fiduciary, and employer  
22 withholding; and
  - 23 2. Division of Corporation Tax, which shall administer the corporation  
24 income tax, corporation license tax, pass-through entity withholding,  
25 and pass-through entity reporting requirements; and
- 26 (f) Office of Field Operations, headed by an executive director who shall report  
27 directly to the commissioner. The office shall manage the regional taxpayer

1 service centers and the field audit program.

2 (2) The functions and duties of the department shall include conducting conferences,  
3 administering taxpayer protests, and settling tax controversies on a fair and  
4 equitable basis, taking into consideration the hazards of litigation to the  
5 Commonwealth of Kentucky and the taxpayer. The mission of the department shall  
6 be to afford an opportunity for taxpayers to have an independent informal review of  
7 the determinations of the audit functions of the department, and to attempt to fairly  
8 and equitably resolve tax controversies at the administrative level.

9 (3) The department shall maintain an accounting structure for the one hundred twenty  
10 (120) property valuation administrators' offices across the Commonwealth in order  
11 to facilitate use of the state payroll system and the budgeting process.

12 (4) Except as provided in KRS 131.190(3)~~[(4)]~~, the department shall fully cooperate  
13 with and make tax information available as prescribed under KRS 131.190(2)(p) to  
14 the Governor's Office for Economic Analysis as necessary for the office to perform  
15 the tax administration function established in KRS 42.410.

16 (5) Executive directors and division directors established under this section shall be  
17 appointed by the secretary with the approval of the Governor.