

1 AN ACT relating to tax expenditures.

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

3 ➔Section 1. KRS 132.020 is amended to read as follows:

4 (1) The owner or person assessed shall pay an annual ad valorem tax for state purposes
5 at the rate of:

6 (a) Thirty-one and one-half cents (\$0.315) upon each one hundred dollars (\$100)
7 of value of all real property directed to be assessed for taxation;

8 (b) ~~Twenty five cents (\$0.25) upon each one hundred dollars (\$100) of value of~~
9 ~~all motor vehicles qualifying for permanent registration as historic motor~~
10 ~~vehicles under KRS 186.043;~~

11 (c) ~~Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all:~~

12 1. Machinery actually engaged in manufacturing;

13 2. Commercial radio and television equipment used to receive, capture,
14 produce, edit, enhance, modify, process, store, convey, or transmit audio
15 or video content or electronic signals which are broadcast over the air to
16 an antenna, including radio and television towers used to transmit or
17 facilitate the transmission of the signal broadcast and equipment used to
18 gather or transmit weather information, but excluding telephone and
19 cellular communication towers; and

20 3. Tangible personal property which has been certified as a pollution
21 control facility as defined in KRS 224.1-300. In the case of tangible
22 personal property certified as a pollution control facility which is
23 incorporated into a landfill facility, the tangible personal property shall
24 be presumed to remain tangible personal property for purposes of this
25 paragraph if the tangible personal property is being used for its intended
26 purposes;

27 ~~(c)~~~~(d)~~ Ten cents (\$0.10) upon each one hundred dollars (\$100) of value on the

1 operating property of railroads or railway companies that operate solely within
2 the Commonwealth;

3 ~~(d)~~~~(e)~~ Five cents (\$0.05) upon each one hundred dollars (\$100) of value of
4 goods held for sale in the regular course of business, which includes:

5 1. Machinery and equipment held in a retailer's inventory for sale or lease
6 originating under a floor plan financing arrangement;

7 2. Motor vehicles:

8 a. Held for sale in the inventory of a licensed motor vehicle dealer,
9 including licensed motor vehicle auction dealers, which are not
10 currently titled and registered in Kentucky and are held on an
11 assignment pursuant to KRS 186A.230; or

12 b. That are in the possession of a licensed motor vehicle dealer,
13 including licensed motor vehicle auction dealers, for sale, although
14 ownership has not been transferred to the dealer;

15 3. Raw materials, which includes distilled spirits and distilled spirits
16 inventory;

17 4. In-process materials, which includes distilled spirits and distilled spirits
18 inventory, held for incorporation in finished goods held for sale in the
19 regular course of business; and

20 5. Qualified heavy equipment;

21 ~~(e)~~~~(f)~~ One and one-half cents (\$0.015) upon each one hundred dollars (\$100)
22 of value of all:

23 1. Privately owned leasehold interests in industrial buildings, as defined
24 under KRS 103.200, owned and financed by a tax-exempt governmental
25 unit, or tax-exempt statutory authority under the provisions of KRS
26 Chapter 103, upon the prior approval of the Kentucky Economic
27 Development Finance Authority, except that the rate shall not apply to

- 1 the proportion of value of the leasehold interest created through any
 2 private financing;
- 3 2. ~~[Qualifying voluntary environmental remediation property, provided the
 4 property owner has corrected the effect of all known releases of
 5 hazardous substances, pollutants, contaminants, petroleum, or petroleum
 6 products located on the property consistent with a corrective action plan
 7 approved by the Energy and Environment Cabinet pursuant to KRS
 8 224.1-400, 224.1-405, or 224.60-135, and provided the cleanup was not
 9 financed through a public grant or the petroleum storage tank
 10 environmental assurance fund. This rate shall apply for a period of three
 11 (3) years following the Energy and Environment Cabinet's issuance of a
 12 No Further Action Letter or its equivalent, after which the regular tax
 13 rate shall apply;~~
- 14 3. ~~—~~ Tobacco directed to be assessed for taxation;
- 15 3.~~[4.]~~ Unmanufactured agricultural products; ***and***
- 16 ~~[5. — Aircraft not used in the business of transporting persons or property for
 17 compensation or hire;~~
- 18 ~~6. — Federally documented vessels not used in the business of transporting
 19 persons or property for compensation or hire, or for other commercial
 20 purposes; and]~~
- 21 4.~~[7.]~~ Privately owned leasehold interests in residential property described in
 22 KRS 132.195(2)(g);
- 23 ~~(f)(g)]~~ One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of
 24 value of all:
- 25 1. Farm implements and farm machinery owned by or leased to a person
 26 actually engaged in farming and used in his farm operations;
- 27 2. Livestock and domestic fowl; ***and***

- 1 3. Tangible personal property located in a foreign trade zone established
2 pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in
3 accordance with the regulations of the United States Customs Service
4 and the Foreign Trade Zones Board; and
5 ~~[4. Property which has been certified as an alcohol production facility as~~
6 ~~defined in KRS 247.910, or as a fluidized bed energy production facility~~
7 ~~as defined in KRS 211.390; and]~~
8 (g)~~(h)~~ Forty-five cents (\$0.45) upon each one hundred dollars (\$100) of value
9 of all other property directed to be assessed for taxation shall be paid by the
10 owner or person assessed, except as provided in KRS 132.030, 132.200,
11 136.300, and 136.320, providing a different tax rate for particular property.
- 12 (2) Notwithstanding subsection (1)(a) of this section, the state tax rate on real property
13 shall be reduced to compensate for any increase in the aggregate assessed value of
14 real property to the extent that the increase exceeds the preceding year's assessment
15 by more than four percent (4%), excluding:
- 16 (a) The assessment of new property as defined in KRS 132.010(8);
17 (b) The assessment from property which is subject to tax increment financing
18 pursuant to KRS Chapter 65; and
19 (c) The assessment from leasehold property which is owned and financed by a
20 tax-exempt governmental unit, or tax-exempt statutory authority under the
21 provisions of KRS Chapter 103 and entitled to the reduced rate of one and
22 one-half cents (\$0.015) pursuant to subsection (1)(g)~~(f)~~ of this section. In
23 any year in which the aggregate assessed value of real property is less than the
24 preceding year, the state rate shall be increased to the extent necessary to
25 produce the approximate amount of revenue that was produced in the
26 preceding year from real property.
- 27 (3) By July 1 each year, the department shall compute the state tax rate applicable to

1 real property for the current year in accordance with the provisions of subsection (2)
2 of this section and certify the rate to the county clerks for their use in preparing the
3 tax bills. If the assessments for all counties have not been certified by July 1, the
4 department shall, when either real property assessments of at least seventy-five
5 percent (75%) of the total number of counties of the Commonwealth have been
6 determined to be acceptable by the department, or when the number of counties
7 having at least seventy-five percent (75%) of the total real property assessment for
8 the previous year have been determined to be acceptable by the department, make
9 an estimate of the real property assessments of the uncertified counties and compute
10 the state tax rate.

11 (4) If the tax rate set by the department as provided in subsection (2) of this section
12 produces more than a four percent (4%) increase in real property tax revenues,
13 excluding:

14 (a) The revenue resulting from new property as defined in KRS 132.010(8);

15 (b) The revenue from property which is subject to tax increment financing
16 pursuant to KRS Chapter 65; and

17 (c) The revenue from leasehold property which is owned and financed by a tax-
18 exempt governmental unit, or tax-exempt statutory authority under the
19 provisions of KRS Chapter 103 and entitled to the reduced rate of one and
20 one-half cents (\$0.015) pursuant to subsection (1) of this section;

21 the rate shall be adjusted in the succeeding year so that the cumulative total of each
22 year's property tax revenue increase shall not exceed four percent (4%) per year.

23 (5) The provisions of subsection (2) of this section notwithstanding, the assessed value
24 of unmined coal certified by the department after July 1, 1994, shall not be included
25 with the assessed value of other real property in determining the state real property
26 tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also
27 be excluded from the provisions of subsection (2) of this section. The calculated

1 rate shall, however, be applied to unmined coal property, and the state revenue shall
2 be devoted to the program described in KRS 146.550 to 146.570, except that four
3 hundred thousand dollars (\$400,000) of the state revenue shall be paid annually to
4 the State Treasury and credited to the Office of Energy Policy for the purpose of
5 public education of coal-related issues.

6 ➔Section 2. KRS 132.450 is amended to read as follows:

7 (1) Each property valuation administrator shall assess at its fair cash value all property
8 which it is his duty to assess ~~except as provided in paragraph (c) of subsection (2)~~
9 ~~of this section~~. The property of one (1) person shall not be assessed willfully or
10 intentionally at a lower or higher relative value than the same class of property of
11 another, and any grossly discriminatory valuation shall be construed as an
12 intentional discrimination. The property valuation administrator shall make every
13 effort, through visits with the taxpayer, personal inspection of the property, from
14 records, from his own knowledge, from information in property schedules, and from
15 such other evidence as he may be able to obtain, to locate, identify, and assess
16 property.

17 (2) (a) In determining the total area of land devoted to agricultural or horticultural
18 use, there shall be included the area of all land under farm buildings,
19 greenhouses and like structures, lakes, ponds, streams, irrigation ditches and
20 similar facilities, and garden plots devoted to growth of products for on-farm
21 personal consumption but there shall be excluded, land used in connection
22 with dwelling houses including, but not limited to, lawns, drives, flower
23 gardens, swimming pools, or other areas devoted to family recreation. Where
24 contiguous land in agricultural or horticultural use in one (1) ownership is
25 located in more than one (1) county or taxing district, compliance with the
26 minimum requirements shall be determined on the basis of the total area of
27 such land and not the area of land which is located in the particular county or

1 taxing district.

2 (b) Land devoted to agricultural or horticultural use, where the owner or owners
3 have petitioned for, and been granted, a zoning classification other than for
4 agricultural or horticultural purposes qualifies for the agricultural or
5 horticultural assessment until such time as the land changes from agricultural
6 or horticultural use to the use granted by the zoning classification.

7 (c) ~~[When the use of a part of a tract of land which is assessed as agricultural or
8 horticultural land is changed either by conveyance or other action of the
9 owner, the right of the remaining land to be retained in the agricultural or
10 horticultural assessment shall not be impaired provided it meets the minimum
11 requirements, except the minimum ten (10) contiguous acre requirement shall
12 not be applicable if any portion of the agricultural or horticultural land has
13 been acquired for a public purpose as long as the remaining land continues to
14 meet the other requirements of this section.~~

15 (d) ~~]~~When in the opinion of the property valuation administrator any land has a
16 value in excess of that for agricultural or horticultural use the property
17 valuation administrator shall enter into the tax records the value of the
18 property according to its fair cash value. When the property valuation
19 administrator determines that the land meets the requirements for valuation as
20 agricultural or horticultural land, the valuation for tax purposes shall be its
21 agricultural or horticultural value.

22 (3) When land which has been valued and taxed as agricultural land for five (5) or more
23 consecutive years under the same ownership fails to qualify for the classification
24 through no other action on the part of the owner or owners other than ceasing to
25 farm the land, the land shall retain its agricultural classification for assessment and
26 taxation purposes. Classification as agricultural land shall expire upon change of
27 use by the owner or owners or upon conveyance of the property to a person other

1 than a surviving spouse.

2 (4) If the property valuation administrator assesses any property at a greater value than
3 that listed by the taxpayer or assesses unlisted property, the property valuation
4 administrator shall serve notice on the taxpayer of such action. The notice shall be
5 given by first-class mail or as provided in the Kentucky Rules of Civil Procedure.

6 (5) Any taxpayer may designate on the property schedule any property which he does
7 not consider to be subject to taxation, and it shall be the duty of the property
8 valuation administrator to obtain and follow advice from the department relative to
9 the taxability of such property.

10 ➔Section 3. KRS 134.810 is amended to read as follows:

11 (1) All state, county, city, urban-county government, school, and special taxing district
12 ad valorem taxes shall be due and payable on or before the earlier of the last day of
13 the month in which registration renewal is required by law for a motor vehicle
14 renewed or the last day of the month in which a vehicle is transferred.

15 (2) All state, county, city, urban-county government, school, and special taxing district
16 ad valorem taxes due on motor vehicles shall become delinquent following the
17 earlier of the end of the month in which registration renewal is required by law or
18 the last day of the second calendar month following the month in which a vehicle
19 was transferred.

20 (3) Any taxes which are paid within thirty (30) days of becoming delinquent shall be
21 subject to a penalty of three percent (3%) on the taxes due. However, this penalty
22 shall be waived if the tax bill is paid within five (5) days of the tax bill being
23 declared delinquent. Any taxes which are not paid within thirty (30) days of
24 becoming delinquent shall be subject to a penalty of ten percent (10%) on the taxes
25 due. In addition, interest at an annual rate of fifteen percent (15%) shall accrue on
26 said taxes and penalty from the date of delinquency. A penalty or interest shall not
27 accrue on a motor vehicle under dealer assignment pursuant to KRS 186A.220.

- 1 (4) When a motor vehicle has been transferred before registration renewal or before
 2 taxes due have been paid, the owner pursuant to KRS 186.010(7)(a) and (c) on
 3 January 1 of any year shall be liable for the taxes on the motor vehicle, except as
 4 hereinafter provided.
- 5 (5) If an owner obtains a certificate of registration for a motor vehicle valid through the
 6 last day of his second birth month following the month and year in which he applied
 7 for a certificate of registration, all state, county, city, urban-county government,
 8 school, and special tax district ad valorem tax liabilities arising from the assessment
 9 date following initial registration shall be due and payable on or before the last day
 10 of the first birth month following the assessment date or date of transfer, whichever
 11 is earlier. Any taxes due under the provisions of this subsection and not paid as set
 12 forth above shall be considered delinquent and subject to the same interest and
 13 penalties found in subsection (3) of this section.
- 14 (6) For purposes of the state ad valorem tax only, all motor vehicles:
- 15 (a) Held for sale by a licensed motor vehicle dealer, including licensed motor
 16 vehicle auction dealers; *and*
- 17 (b) That are in the possession of a licensed motor vehicle dealer, including
 18 licensed motor vehicle auction dealers, for sale, although ownership has not
 19 been transferred to the dealer; ~~and~~
- 20 ~~(c) With a salvage title held by an insurance company;~~
- 21 on January 1 of any year shall not be taxed as a motor vehicle pursuant to KRS
 22 132.485 but shall be subject to ad valorem tax as goods held for sale in the regular
 23 course of business under the provisions of KRS 132.020(1)(d)(~~e~~) and 132.220.
- 24 (7) Any provision to the contrary notwithstanding, when any ad valorem tax on a motor
 25 vehicle becomes delinquent, the state and each county, city, urban-county
 26 government, or other taxing district shall have a lien on all motor vehicles owned or
 27 acquired by the person who owned the motor vehicle at the time the tax liability

1 arose. A lien for delinquent ad valorem taxes shall not attach to any motor vehicle
2 transferred while the taxes are due on that vehicle. For the purpose of delinquent ad
3 valorem taxes on leased vehicles only, a lien on a leased vehicle shall not be
4 attached to another vehicle owned by the lessor.

5 (8) The lien required by subsection (7) of this section shall be filed and released by the
6 automatic entry of appropriate information in the AVIS database. For the filing and
7 release of each lien or set of liens arising from motor vehicle ad valorem property
8 tax delinquency, a fee of two dollars (\$2) pursuant to this section shall be added to
9 the delinquent tax account. The fee shall be collected and retained by the county
10 clerk who collects the delinquent tax.

11 (9) The implementation of the automated lien system provided in this section shall not
12 affect the manner in which commercial liens are recorded or released.

13 ➔Section 4. The following KRS sections are repealed:

14 132.192 Property tax exemption reciprocity.

15 132.454 Tax liability when real property taxed as agricultural or horticultural is
16 converted to another use.

17 ➔Section 5. KRS 138.470 is amended to read as follows:

18 There is expressly exempted from the tax imposed by KRS 138.460:

19 (1) Motor vehicles titled or registered to the United States, or to the Commonwealth of
20 Kentucky or any of its political subdivisions;

21 (2) Motor vehicles titled or registered to institutions of purely public charity and
22 institutions of education not used or employed for gain by any person or
23 corporation;

24 (3) Motor vehicles which have been previously titled in Kentucky on or after July 1,
25 2005, or previously registered and titled in any state or by the federal government
26 when being sold or transferred to licensed motor vehicle dealers for resale. The
27 motor vehicles shall not be leased, rented, or loaned to any person and shall be held

- 1 for resale only;
- 2 (4) Motor vehicles sold by or transferred from dealers registered and licensed in
3 compliance with the provisions of KRS 186.070 and KRS 190.010 to 190.080 to
4 members of the Armed Forces on duty in this Commonwealth under orders from the
5 United States government;
- 6 ~~(5) Commercial motor vehicles, excluding passenger vehicles having a seating capacity
7 for nine (9) persons or less, owned by nonresident owners and used primarily in
8 interstate commerce and based in a state other than Kentucky which are required to
9 be registered in Kentucky by reason of operational requirements or fleet proration
10 agreements and are registered pursuant to KRS 186.145;~~
- 11 ~~(6)~~ Motor vehicles titled in Kentucky on or after July 1, 2005, or previously registered
12 in Kentucky, transferred between husband and wife, parent and child, stepparent
13 and stepchild, or grandparent and grandchild;
- 14 ~~(6)~~⁽⁷⁾ Motor vehicles transferred when a business changes its name and no other
15 transaction has taken place or an individual changes his or her name;
- 16 ~~(7)~~⁽⁸⁾ Motor vehicles transferred to a corporation from a proprietorship or limited
17 liability company, to a limited liability company from a corporation or
18 proprietorship, or from a corporation or limited liability company to a
19 proprietorship, within six (6) months from the time that the business is
20 incorporated, organized, or dissolved, if the transferor and the transferee are the
21 same business entity except for a change in legal form;
- 22 ~~(9)~~ Motor vehicles transferred by will, court order, or under the statutes covering
23 descent and distribution of property, if the vehicles were titled in Kentucky on or
24 after July 1, 2005, or previously registered in Kentucky;
- 25 ~~(8)~~⁽¹⁰⁾ Motor vehicles transferred between a subsidiary corporation and its parent
26 corporation if there is no consideration, or nominal consideration, or in sole
27 consideration of the cancellation or surrender of stock;

- 1 ~~(11) Motor vehicles transferred between a limited liability company and any of its~~
2 ~~members, if there is no consideration, or nominal consideration, or in sole~~
3 ~~consideration of the cancellation or surrender of stock;~~
- 4 ~~(12) The interest of a partner in a motor vehicle when other interests are transferred to~~
5 ~~him;~~
- 6 ~~(13) Motor vehicles repossessed by a secured party who has a security interest in effect~~
7 ~~at the time of repossession and a repossession affidavit as required by KRS~~
8 ~~186.045(6). The reposessor shall hold the vehicle for resale only and not for~~
9 ~~personal use, unless he has previously paid the motor vehicle usage tax on the~~
10 ~~vehicle;~~
- 11 ~~(14) Motor vehicles transferred to an insurance company to settle a claim. These vehicles~~
12 ~~shall be junked or held for resale only;~~
- 13 ~~(15) Motor carriers operating under a charter bus certificate issued by the Transportation~~
14 ~~Cabinet under KRS Chapter 281;~~
- 15 ~~(16)~~ (a) 1. Motor vehicles registered under KRS 186.050 that have a declared gross
16 vehicle weight with any towed unit of forty-four thousand and one
17 (44,001) pounds or greater; and
- 18 2. Farm trucks registered under KRS 186.050(4) that have a declared gross
19 vehicle weight with any towed unit of forty-four thousand and one
20 (44,001) pounds or greater;
- 21 (b) To be eligible for the exemption established in paragraph (a) of this
22 subsection, motor vehicles shall be registered at the appropriate range for the
23 declared gross weight of the vehicle established in KRS 186.050(3)(b) and
24 shall be prohibited from registering at a higher weight range. If a motor
25 vehicle is initially registered in one (1) declared gross weight range and
26 subsequently is registered at a declared gross weight range lower than forty-
27 four thousand and one (44,001) pounds, the person registering the vehicle

1 shall be required to pay the county clerk the usage tax due on the vehicle
 2 unless the person can provide written proof to the clerk that the tax has been
 3 previously paid;

4 ~~(9)~~~~(17)~~ Motor vehicles transferred to a trustee to be held in trust, or from a trustee to a
 5 beneficiary of the trust, if a direct transfer from the grantor of the trust to all
 6 individual beneficiaries of the trust would have qualified for an exemption from the
 7 tax pursuant to subsection ~~(5)~~~~(6)~~ or ~~(7)~~~~(9)~~ of this section;

8 ~~(10)~~~~(18)~~ Motor vehicles transferred to a trustee to be held in trust, if the grantor of the
 9 trust is a natural person and is treated as the owner of any portion of the trust for
 10 federal income tax purposes under the provisions of 26 U.S.C. secs. 671 to 679;

11 ~~(11)~~~~(19)~~ Motor vehicles transferred from a trustee of a trust to another person if:

12 (a) The grantor of the trust is a natural person and is treated as the owner of any
 13 portion of the trust for federal income tax purposes under the provisions of 26
 14 U.S.C. secs. 671 to 679; and

15 (b) A direct transfer from the grantor of the trust to the person would have
 16 qualified for an exemption from the tax pursuant to subsection ~~(5)~~~~(6)~~ or
 17 ~~(7)~~~~(9)~~ of this section; and

18 ~~(12)~~~~(20)~~ Motor vehicles under a manufacturer's statement of origin in possession of a
 19 licensed new motor vehicle dealer that are titled and transferred to a licensed used
 20 motor vehicle dealer and held for sale.

21 ➔Section 6. KRS 138.450 is amended to read as follows:

22 As used in KRS 138.455 to 138.470, unless the context requires otherwise:

23 (1) "Current model year" means a motor vehicle of either the model year corresponding
 24 to the current calendar year or of the succeeding calendar year, if the same model
 25 and make is being offered for sale by local dealers;

26 (2) "Dealer" means "motor vehicle dealer" as defined in KRS 190.010;

27 (3) "Dealer demonstrator" means a new motor vehicle or a previous model year motor

- 1 vehicle with an odometer reading of least one thousand (1,000) miles that has been
2 used either by representatives of the manufacturer or by a licensed Kentucky dealer,
3 franchised to sell the particular model and make, for demonstration;
- 4 (4) "Historic motor vehicle" means a motor vehicle registered and licensed pursuant to
5 KRS 186.043;
- 6 (5) "Motor vehicle" means any vehicle that is propelled by other than muscular power
7 and that is used for transportation of persons or property over the public highways
8 of the state, except road rollers, mopeds, vehicles that travel exclusively on rails,
9 and vehicles propelled by electric power obtained from overhead wires;
- 10 (6) "Moped" means either a motorized bicycle whose frame design may include one (1)
11 or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a
12 motorized bicycle with a step through type frame which may or may not have pedals
13 rated no more than two (2) brake horsepower, a cylinder capacity not exceeding
14 fifty (50) cubic centimeters, an automatic transmission not requiring clutching or
15 shifting by the operator after the drive system is engaged, and capable of a
16 maximum speed of not more than thirty (30) miles per hour;
- 17 (7) "New motor vehicle" means a motor vehicle of the current model year which has
18 not previously been registered in any state or country;
- 19 (8) "Previous model year motor vehicle" means a motor vehicle not previously
20 registered in any state or country which is neither of the current model year nor a
21 dealer demonstrator;
- 22 (9) "Total consideration given" means the amount given, valued in money, whether
23 received in money or otherwise, at the time of purchase or at a later date, including
24 consideration given for all equipment and accessories, standard and optional. "Total
25 consideration given" shall not include:
- 26 (a) Any amount allowed as a manufacturer or dealer rebate if the rebate is
27 provided at the time of purchase and is applied to the purchase of the motor

- 1 vehicle;
- 2 (b) Any interest payments to be made over the life of a loan for the purchase of a
3 motor vehicle; and
- 4 (c) The value of any items that are not equipment or accessories including but not
5 limited to extended warranties, service contracts, and items that are given
6 away as part of a promotional sales campaign;
- 7 (10) "Trade-in allowance" means:
- 8 (a) The value assigned by the seller of a motor vehicle to a motor vehicle
9 registered to the purchaser and offered in trade by the purchaser as part of the
10 total consideration given by the purchaser and included in the notarized
11 affidavit attesting to total consideration given; or
- 12 (b) In the absence of a notarized affidavit, the value of the vehicle being offered
13 in trade as established by the department through the use of the reference
14 manual;
- 15 (11) "Used motor vehicle" means a motor vehicle which has been previously registered
16 in any state or country;
- 17 (12) "Retail price" for:
- 18 (a) New motor vehicles;
- 19 (b) Dealer demonstrator vehicles;
- 20 (c) Previous model year motor vehicles; and
- 21 (d) U-Drive-It motor vehicles that have been transferred within one hundred
22 eighty (180) days of being registered as a U-Drive-It and that have less than
23 five thousand (5,000) miles;
- 24 means the total consideration given, as determined in KRS 138.4603;
- 25 (13) "Retail price" for historic motor vehicles shall be one hundred dollars (\$100);
- 26 (14) "Retail price" for used motor vehicles being titled or registered by a new resident
27 for the first time in Kentucky whose values appear in the reference manual means

1 the trade-in value given in the reference manual;

2 (15) "Retail price" for older used motor vehicles being titled or registered by a new
3 resident for the first time in Kentucky whose values no longer appear in the
4 reference manual shall be one hundred dollars (\$100);

5 (16) (a) "Retail price" for:

6 1. Used motor vehicles, except those vehicles for which the retail price is
7 established in subsection (13), (14), (15), (17), or (19) of this section;
8 and

9 2. U-Drive-It motor vehicles that are not transferred within one hundred
10 eighty (180) days of being registered as a U-Drive-It or that have more
11 than five thousand (5,000) miles;

12 means the total consideration given, excluding any amount allowed as a trade-
13 in allowance by the seller, as attested to in a notarized affidavit, provided that
14 the retail price established by the notarized affidavit shall not be less than fifty
15 percent (50%) of the difference between the trade-in value, as established by
16 the reference manual, of the motor vehicle offered for registration and the
17 trade-in value, as established by the reference manual, of any motor vehicle
18 offered in trade as part of the total consideration given.

19 (b) The trade-in allowance shall also be disclosed in the notarized affidavit.

20 (c) If a notarized affidavit is not available, "retail price" shall be established by
21 the department through the use of the reference manual;

22 (17) Except as provided in KRS 138.470~~[(6)]~~, if a motor vehicle is received by an
23 individual as a gift and not purchased or leased by the individual, "retail price" shall
24 be the trade-in value given in the reference manual;

25 (18) If a dealer transfers a motor vehicle which he has registered as a loaner or rental
26 motor vehicle within one hundred eighty (180) days of the registration, and if less
27 than five thousand (5,000) miles have been placed on the vehicle during the period

1 of its registration as a loaner or rental motor vehicle, then the "retail price" of the
2 vehicle shall be the same as the retail price determined by paragraph (a) of
3 subsection (12) of this section computed as of the date on which the vehicle is
4 transferred;

5 (19) "Retail price" for motor vehicles titled pursuant to KRS 186A.520, 186A.525,
6 186A.530, or 186A.555 means the total consideration given as attested to in a
7 notarized affidavit;

8 (20) "Loaner or rental motor vehicle" means a motor vehicle owned or registered by a
9 dealer and which is regularly loaned or rented to customers of the service or repair
10 component of the dealership;

11 (21) "Department" means the Department of Revenue;

12 (22) "Notarized affidavit" means a dated affidavit signed by the buyer and the seller on
13 which the signature of the buyer and the signature of the seller are individually
14 notarized; and

15 (23) "Reference manual" means the automotive reference manual prescribed by the
16 department.

17 ➔Section 7. KRS 139.010 is amended to read as follows:

18 As used in this chapter, unless the context otherwise provides:

19 (1) (a) "Admissions" means the fees paid for:

20 1. The right of entrance to a display, program, sporting event, music
21 concert, performance, play, show, movie, exhibit, fair, or other
22 entertainment or amusement event or venue; and

23 2. The privilege of using facilities or participating in an event or activity,
24 including but not limited to:

25 a. Bowling centers;

26 b. Skating rinks;

27 c. Health spas;

- 1 d. Swimming pools;
- 2 e. Tennis courts;
- 3 f. Weight training facilities;
- 4 g. Fitness and recreational sports centers; and
- 5 h. Golf courses, both public and private;
- 6 regardless of whether the fee paid is per use or in any other form,
- 7 including but not limited to an initiation fee, monthly fee, membership
- 8 fee, or combination thereof.

9 (b) **Prior to July 1, 2021**, "admissions" does not include:

- 10 1. Any fee paid to enter or participate in a fishing tournament; or
- 11 2. Any fee paid for the use of a boat ramp for the purpose of allowing boats
- 12 to be launched into or hauled out from the water;

13 (2) "Advertising and promotional direct mail" means direct mail the primary purpose of
14 which is to attract public attention to a product, person, business, or organization, or
15 to attempt to sell, popularize, or secure financial support for a product, person,
16 business, or organization. As used in this definition, "product" means tangible
17 personal property, an item transferred electronically, or a service;

18 (3) "Business" includes any activity engaged in by any person or caused to be engaged
19 in by that person with the object of gain, benefit, or advantage, either direct or
20 indirect;

21 (4) "Commonwealth" means the Commonwealth of Kentucky;

22 (5) "Department" means the Department of Revenue;

23 (6) (a) "Digital audio-visual works" means a series of related images which, when
24 shown in succession, impart an impression of motion, with accompanying
25 sounds, if any.

26 (b) "Digital audio-visual works" includes movies, motion pictures, musical
27 videos, news and entertainment programs, and live events.

- 1 (c) "Digital audio-visual works" shall not include video greeting cards, video
2 games, and electronic games;
- 3 (7) (a) "Digital audio works" means works that result from the fixation of a series of
4 musical, spoken, or other sounds.
- 5 (b) "Digital audio works" includes ringtones, recorded or live songs, music,
6 readings of books or other written materials, speeches, or other sound
7 recordings.
- 8 (c) "Digital audio works" shall not include audio greeting cards sent by electronic
9 mail;
- 10 (8) (a) "Digital books" means works that are generally recognized in the ordinary and
11 usual sense as books, including any literary work expressed in words,
12 numbers, or other verbal or numerical symbols or indicia if the literary work is
13 generally recognized in the ordinary or usual sense as a book.
- 14 (b) "Digital books" shall not include digital audio-visual works, digital audio
15 works, periodicals, magazines, newspapers, or other news or information
16 products, chat rooms, or Web logs;
- 17 (9) (a) "Digital code" means a code which provides a purchaser with a right to obtain
18 one (1) or more types of digital property. A "digital code" may be obtained by
19 any means, including electronic mail messaging or by tangible means,
20 regardless of the code's designation as a song code, video code, or book code.
- 21 (b) "Digital code" shall not include a code that represents:
- 22 1. A stored monetary value that is deducted from a total as it is used by the
23 purchaser; or
- 24 2. A redeemable card, gift card, or gift certificate that entitles the holder to
25 select specific types of digital property;
- 26 (10) (a) "Digital property" means any of the following which is transferred
27 electronically:

- 1 1. Digital audio works;
 - 2 2. Digital books;
 - 3 3. Finished artwork;
 - 4 4. Digital photographs;
 - 5 5. Periodicals;
 - 6 6. Newspapers;
 - 7 7. Magazines;
 - 8 8. Video greeting cards;
 - 9 9. Audio greeting cards;
 - 10 10. Video games;
 - 11 11. Electronic games; or
 - 12 12. Any digital code related to this property.
- 13 (b) "Digital property" shall not include digital audio-visual works or satellite
- 14 radio programming;
- 15 (11) (a) "Direct mail" means printed material delivered or distributed by United States
- 16 mail or other delivery service to a mass audience or to addressees on a mailing
- 17 list provided by the purchaser or at the direction of the purchaser when the
- 18 cost of the items are not billed directly to the recipient.
- 19 (b) "Direct mail" includes tangible personal property supplied directly or
- 20 indirectly by the purchaser to the direct mail retailer for inclusion in the
- 21 package containing the printed material.
- 22 (c) "Direct mail" does not include multiple items of printed material delivered to
- 23 a single address;
- 24 (12) "Directly used in the manufacturing or industrial processing process" means the
- 25 process that commences with the movement of raw materials from storage into a
- 26 continuous, unbroken, integrated process and ends when the finished product is
- 27 packaged and ready for sale;

1 (13) (a) "Extended warranty services" means services provided through a service
2 contract agreement between the contract provider and the purchaser where the
3 purchaser agrees to pay compensation for the contract and the provider agrees
4 to repair, replace, support, or maintain tangible personal property or digital
5 property according to the terms of the contract if:

- 6 1. The service contract agreement is sold or purchased on or after July 1,
7 2018; and
- 8 2. The tangible personal property or digital property for which the service
9 contract agreement is provided is subject to tax under this chapter or
10 under KRS 138.460.

11 (b) "Extended warranty services" does not include the sale of a service contract
12 agreement for tangible personal property to be used by a small telephone
13 utility as defined in KRS 278.516 or a Tier III CMRS provider as defined in
14 KRS 65.7621 to deliver communications services as defined in KRS 136.602
15 or broadband as defined in KRS 278.5461;

16 (14) (a) "Finished artwork" means final art that is used for actual reproduction by
17 photomechanical or other processes or for display purposes.

18 (b) "Finished artwork" includes:

- 19 1. Assemblies;
- 20 2. Charts;
- 21 3. Designs;
- 22 4. Drawings;
- 23 5. Graphs;
- 24 6. Illustrative materials;
- 25 7. Lettering;
- 26 8. Mechanicals;
- 27 9. Paintings; and

- 1 10. Paste-ups;
- 2 (15) (a) "Gross receipts" and "sales price" mean the total amount or consideration,
3 including cash, credit, property, and services, for which tangible personal
4 property, digital property, or services are sold, leased, or rented, valued in
5 money, whether received in money or otherwise, without any deduction for
6 any of the following:
- 7 1. The retailer's cost of the tangible personal property, digital property, or
8 services sold;
- 9 2. The cost of the materials used, labor or service cost, interest, losses, all
10 costs of transportation to the retailer, all taxes imposed on the retailer, or
11 any other expense of the retailer;
- 12 3. Charges by the retailer for any services necessary to complete the sale;
- 13 4. Delivery charges, which are defined as charges by the retailer for the
14 preparation and delivery to a location designated by the purchaser
15 including transportation, shipping, postage, handling, crating, and
16 packing;
- 17 5. Any amount for which credit is given to the purchaser by the retailer,
18 other than credit for tangible personal property or digital property traded
19 when the tangible personal property or digital property traded is of like
20 kind and character to the property purchased and the property traded is
21 held by the retailer for resale; and
- 22 6. The amount charged for labor or services rendered in installing or
23 applying the tangible personal property, digital property, or service sold.
- 24 (b) "Gross receipts" and "sales price" shall include consideration received by the
25 retailer from a third party if:
- 26 1. The retailer actually receives consideration from a third party and the
27 consideration is directly related to a price reduction or discount on the

- 1 sale to the purchaser;
- 2 2. The retailer has an obligation to pass the price reduction or discount
- 3 through to the purchaser;
- 4 3. The amount of consideration attributable to the sale is fixed and
- 5 determinable by the retailer at the time of the sale of the item to the
- 6 purchaser; and
- 7 4. One (1) of the following criteria is met:
- 8 a. The purchaser presents a coupon, certificate, or other
- 9 documentation to the retailer to claim a price reduction or discount
- 10 where the coupon, certificate, or documentation is authorized,
- 11 distributed, or granted by a third party with the understanding that
- 12 the third party will reimburse any seller to whom the coupon,
- 13 certificate, or documentation is presented;
- 14 b. The price reduction or discount is identified as a third-party price
- 15 reduction or discount on the invoice received by the purchaser or
- 16 on a coupon, certificate, or other documentation presented by the
- 17 purchaser; or
- 18 c. The purchaser identifies himself or herself to the retailer as a
- 19 member of a group or organization entitled to a price reduction or
- 20 discount. A "preferred customer" card that is available to any
- 21 patron does not constitute membership in such a group.
- 22 (c) "Gross receipts" and "sales price" shall not include:
- 23 1. Discounts, including cash, term, or coupons that are not reimbursed by a
- 24 third party and that are allowed by a retailer and taken by a purchaser on
- 25 a sale;
- 26 2. Interest, financing, and carrying charges from credit extended on the sale
- 27 of tangible personal property, digital property, or services, if the amount

1 is separately stated on the invoice, bill of sale, or similar document given
2 to the purchaser; or

3 3. Any taxes legally imposed directly on the purchaser that are separately
4 stated on the invoice, bill of sale, or similar document given to the
5 purchaser.

6 (d) As used in this subsection, "third party" means a person other than the
7 purchaser;

8 (16) "In this state" or "in the state" means within the exterior limits of the
9 Commonwealth and includes all territory within these limits owned by or ceded to
10 the United States of America;

11 (17) "Industrial processing" includes:

12 (a) Refining;

13 (b) Extraction of minerals, ores, coal, clay, stone, petroleum, or natural gas;

14 (c) Mining, quarrying, fabricating, and industrial assembling;

15 (d) The processing and packaging of raw materials, in-process materials, and
16 finished products; and

17 (e) The processing and packaging of farm and dairy products for sale;

18 (18) (a) "Lease or rental" means any transfer of possession or control of tangible
19 personal property for a fixed or indeterminate term for consideration. A lease
20 or rental shall include future options to:

21 1. Purchase the property; or

22 2. Extend the terms of the agreement and agreements covering trailers
23 where the amount of consideration may be increased or decreased by
24 reference to the amount realized upon sale or disposition of the property
25 as defined in 26 U.S.C. sec. 7701(h)(1).

26 (b) "Lease or rental" shall not include:

27 1. A transfer of possession or control of property under a security

- 1 agreement or deferred payment plan that requires the transfer of title
2 upon completion of the required payments;
- 3 2. A transfer of possession or control of property under an agreement that
4 requires the transfer of title upon completion of the required payments
5 and payment of an option price that does not exceed the greater of one
6 hundred dollars (\$100) or one percent (1%) of the total required
7 payments; or
- 8 3. Providing tangible personal property and an operator for the tangible
9 personal property for a fixed or indeterminate period of time. To qualify
10 for this exclusion, the operator must be necessary for the equipment to
11 perform as designed, and the operator must do more than maintain,
12 inspect, or setup the tangible personal property.
- 13 (c) This definition shall apply regardless of the classification of a transaction
14 under generally accepted accounting principles, the Internal Revenue Code, or
15 other provisions of federal, state, or local law;
- 16 (19) (a) "Machinery for new and expanded industry" means machinery:
- 17 1. Directly used in the manufacturing or industrial processing process of:
- 18 a. Tangible personal property at a plant facility;
- 19 b. Distilled spirits or wine at a plant facility or on the premises of a
20 distiller, rectifier, winery, or small farm winery licensed under
21 KRS 243.030 that includes a retail establishment on the premises;
22 or
- 23 c. Malt beverages at a plant facility or on the premises of a brewer or
24 microbrewery licensed under KRS 243.040 that includes a retail
25 establishment;
- 26 2. Which is incorporated for the first time into:
- 27 a. A plant facility established in this state; or

- 1 b. Licensed premises located in this state; and
- 2 3. Which does not replace machinery in the plant facility or licensed
- 3 premises unless that machinery purchased to replace existing machinery:
- 4 a. Increases the consumption of recycled materials at the plant
- 5 facility by not less than ten percent (10%);
- 6 b. Performs different functions;
- 7 c. Is used to manufacture a different product; or
- 8 d. Has a greater productive capacity, as measured in units of
- 9 production, than the machinery being replaced.
- 10 (b) "Machinery for new and expanded industry" does not include repair,
- 11 replacement, or spare parts of any kind, regardless of whether the purchase of
- 12 repair, replacement, or spare parts is required by the manufacturer or seller as
- 13 a condition of sale or as a condition of warranty;
- 14 (20) "Manufacturing" means any process through which material having little or no
- 15 commercial value for its intended use before processing has appreciable commercial
- 16 value for its intended use after processing by the machinery;
- 17 (21) "Marketplace" means any physical or electronic means through which one (1) or
- 18 more retailers may advertise and sell tangible personal property, digital property, or
- 19 services, or lease tangible personal property or digital property, such as a catalog,
- 20 Internet Web site, or television or radio broadcast, regardless of whether the
- 21 tangible personal property, digital property, or retailer is physically present in this
- 22 state;
- 23 (22) (a) "Marketplace provider" means a person, including any affiliate of the person,
- 24 that facilitates a retail sale by satisfying subparagraphs 1. and 2. of this
- 25 paragraph as follows:
- 26 1. The person directly or indirectly:
- 27 a. Lists, makes available, or advertises tangible personal property,

- 1 digital property, or services for sale by a marketplace retailer in a
2 marketplace owned, operated, or controlled by the person;
- 3 b. Facilitates the sale of a marketplace retailer's product through a
4 marketplace by transmitting or otherwise communicating an offer
5 or acceptance of a retail sale of tangible personal property, digital
6 property, or services between a marketplace retailer and a
7 purchaser in a forum including a shop, store, booth, catalog,
8 Internet site, or similar forum;
- 9 c. Owns, rents, licenses, makes available, or operates any electronic
10 or physical infrastructure or any property, process, method,
11 copyright, trademark, or patent that connects marketplace retailers
12 to purchasers for the purpose of making retail sales of tangible
13 personal property, digital property, or services;
- 14 d. Provides a marketplace for making retail sales of tangible personal
15 property, digital property, or services, or otherwise facilitates retail
16 sales of tangible personal property, digital property, or services,
17 regardless of ownership or control of the tangible personal
18 property, digital property, or services, that are the subject of the
19 retail sale;
- 20 e. Provides software development or research and development
21 activities related to any activity described in this subparagraph, if
22 the software development or research and development activities
23 are directly related to the physical or electronic marketplace
24 provided by a marketplace provider;
- 25 f. Provides or offers fulfillment or storage services for a marketplace
26 retailer;
- 27 g. Sets prices for a marketplace retailer's sale of tangible personal

- 1 property, digital property, or services;
- 2 h. Provides or offers customer service to a marketplace retailer or a
- 3 marketplace retailer's customers, or accepts or assists with taking
- 4 orders, returns, or exchanges of tangible personal property, digital
- 5 property, or services sold by a marketplace retailer; or
- 6 i. Brands or otherwise identifies sales as those of the marketplace
- 7 provider; and
- 8 2. The person directly or indirectly:
- 9 a. Collects the sales price or purchase price of a retail sale of tangible
- 10 personal property, digital property, or services;
- 11 b. Provides payment processing services for a retail sale of tangible
- 12 personal property, digital property, or services;
- 13 c. Through terms and conditions, agreements, or arrangements with a
- 14 third party, collects payment in connection with a retail sale of
- 15 tangible personal property, digital property, or services from a
- 16 purchaser and transmits that payment to the marketplace retailer,
- 17 regardless of whether the person collecting and transmitting the
- 18 payment receives compensation or other consideration in exchange
- 19 for the service; or
- 20 d. Provides a virtual currency that purchasers are allowed or required
- 21 to use to purchase tangible personal property, digital property, or
- 22 services.
- 23 (b) "Marketplace provider" includes but is not limited to a person that satisfies the
- 24 requirements of this subsection through the ownership, operation, or control
- 25 of a digital distribution service, digital distribution platform, online portal, or
- 26 application store;
- 27 (23) "Marketplace retailer" means a seller that makes retail sales through any

1 marketplace owned, operated, or controlled by a marketplace provider;

2 (24) (a) "Occasional sale" includes:

3 1. A sale of tangible personal property or digital property not held or used
4 by a seller in the course of an activity for which he or she is required to
5 hold a seller's permit, provided such sale is not one (1) of a series of
6 sales sufficient in number, scope, and character to constitute an activity
7 requiring the holding of a seller's permit. In the case of the sale of the
8 entire, or a substantial portion of the nonretail assets of the seller, the
9 number of previous sales of similar assets shall be disregarded in
10 determining whether or not the current sale or sales shall qualify as an
11 occasional sale; or

12 2. Any transfer of all or substantially all the tangible personal property or
13 digital property held or used by a person in the course of such an activity
14 when after such transfer the real or ultimate ownership of such property
15 is substantially similar to that which existed before such transfer.

16 (b) For the purposes of this subsection, stockholders, bondholders, partners, or
17 other persons holding an interest in a corporation or other entity are regarded
18 as having the "real or ultimate ownership" of the tangible personal property or
19 digital property of such corporation or other entity;

20 (25) (a) "Other direct mail" means any direct mail that is not advertising and
21 promotional direct mail, regardless of whether advertising and promotional
22 direct mail is included in the same mailing.

23 (b) "Other direct mail" includes but is not limited to:

24 1. Transactional direct mail that contains personal information specific to
25 the addressee, including but not limited to invoices, bills, statements of
26 account, and payroll advices;

27 2. Any legally required mailings, including but not limited to privacy

1 notices, tax reports, and stockholder reports; and

2 3. Other nonpromotional direct mail delivered to existing or former
3 shareholders, customers, employees, or agents, including but not limited
4 to newsletters and informational pieces.

5 (c) "Other direct mail" does not include the development of billing information or
6 the provision of any data processing service that is more than incidental to the
7 production of printed material;

8 (26) "Person" includes any individual, firm, copartnership, joint venture, association,
9 social club, fraternal organization, corporation, estate, trust, business trust, receiver,
10 trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other
11 group or combination acting as a unit;

12 (27) "Permanent," as the term applies to digital property, means perpetual or for an
13 indefinite or unspecified length of time;

14 (28) "Plant facility" means a single location that is exclusively dedicated to
15 manufacturing or industrial processing activities. A location shall be deemed to be
16 exclusively dedicated to manufacturing or industrial processing activities even if
17 retail sales are made there, provided that the retail sales are incidental to the
18 manufacturing or industrial processing activities occurring at the location. The term
19 "plant facility" shall not include any restaurant, grocery store, shopping center, or
20 other retail establishment;

21 (29) (a) "Prewritten computer software" means:

22 1. Computer software, including prewritten upgrades, that are not designed
23 and developed by the author or other creator to the specifications of a
24 specific purchaser;

25 2. Software designed and developed by the author or other creator to the
26 specifications of a specific purchaser when it is sold to a person other
27 than the original purchaser; or

- 1 3. Any portion of prewritten computer software that is modified or
2 enhanced in any manner, where the modification or enhancement is
3 designed and developed to the specifications of a specific purchaser,
4 unless there is a reasonable, separately stated charge on an invoice or
5 other statement of the price to the purchaser for the modification or
6 enhancement.
- 7 (b) When a person modifies or enhances computer software of which the person
8 is not the author or creator, the person shall be deemed to be the author or
9 creator only of the modifications or enhancements the person actually made.
- 10 (c) The combining of two (2) or more prewritten computer software programs or
11 portions thereof does not cause the combination to be other than prewritten
12 computer software;
- 13 (30) (a) "Purchase" means any transfer of title or possession, exchange, barter, lease,
14 or rental, conditional or otherwise, in any manner or by any means
15 whatsoever, of:
- 16 1. Tangible personal property;
17 2. An extended warranty service;
18 3. Digital property transferred electronically; or
19 4. Services included in KRS 139.200;
20 for a consideration.
- 21 (b) "Purchase" includes:
- 22 1. When performed outside this state or when the customer gives a resale
23 certificate, the producing, fabricating, processing, printing, or imprinting
24 of tangible personal property for a consideration for consumers who
25 furnish either directly or indirectly the materials used in the producing,
26 fabricating, processing, printing, or imprinting;
27 2. A transaction whereby the possession of tangible personal property or

1 digital property is transferred but the seller retains the title as security for
2 the payment of the price; and

3 3. A transfer for a consideration of the title or possession of tangible
4 personal property or digital property which has been produced,
5 fabricated, or printed to the special order of the customer, or of any
6 publication;

7 (31) "Recycled materials" means materials which have been recovered or diverted from
8 the solid waste stream and reused or returned to use in the form of raw materials or
9 products;

10 (32) "Recycling purposes" means those activities undertaken in which materials that
11 would otherwise become solid waste are collected, separated, or processed in order
12 to be reused or returned to use in the form of raw materials or products;

13 (33) "Remote retailer" means a retailer with no physical presence in this state;

14 (34) (a) "Repair, replacement, or spare parts" means any tangible personal property
15 used to maintain, restore, mend, or repair machinery or equipment.

16 (b) "Repair, replacement, or spare parts" does not include machine oils, grease, or
17 industrial tools;

18 (35) (a) "Retailer" means:

19 1. Every person engaged in the business of making retail sales of tangible
20 personal property, digital property, or furnishing any services in a retail
21 sale included in KRS 139.200;

22 2. Every person engaged in the business of making sales at auction of
23 tangible personal property or digital property owned by the person or
24 others for storage, use or other consumption, except as provided in
25 paragraph (c) of this subsection;

26 3. Every person making more than two (2) retail sales of tangible personal
27 property, digital property, or services included in KRS 139.200 during

1 any twelve (12) month period, including sales made in the capacity of
2 assignee for the benefit of creditors, or receiver or trustee in bankruptcy;

3 4. Any person conducting a race meeting under the provision of KRS
4 Chapter 230, with respect to horses which are claimed during the
5 meeting.

6 (b) When the department determines that it is necessary for the efficient
7 administration of this chapter to regard any salesmen, representatives,
8 peddlers, or canvassers as the agents of the dealers, distributors, supervisors or
9 employers under whom they operate or from whom they obtain the tangible
10 personal property, digital property, or services sold by them, irrespective of
11 whether they are making sales on their own behalf or on behalf of the dealers,
12 distributors, supervisors or employers, the department may so regard them and
13 may regard the dealers, distributors, supervisors or employers as retailers for
14 purposes of this chapter.

15 (c) 1. Any person making sales at a charitable auction for a qualifying entity
16 shall not be a retailer for purposes of the sales made at the charitable
17 auction if:

18 a. The qualifying entity, not the person making sales at the auction, is
19 sponsoring the auction;

20 b. The purchaser of tangible personal property at the auction directly
21 pays the qualifying entity sponsoring the auction for the property
22 and not the person making the sales at the auction; and

23 c. The qualifying entity, not the person making sales at the auction, is
24 responsible for the collection, control, and disbursement of the
25 auction proceeds.

26 2. If the conditions set forth in subparagraph 1. of this paragraph are met,
27 the qualifying entity sponsoring the auction shall be the retailer for

1 purposes of the sales made at the charitable auction.

2 3. For purposes of this paragraph, "qualifying entity" means a resident:

3 a. Church;

4 b. School;

5 c. Civic club; or

6 d. Any other nonprofit charitable, religious, or educational
7 organization;

8 (36) "Retail sale" means any sale, lease, or rental for any purpose other than resale,
9 sublease, or subrent;

10 (37) (a) "Ringtones" means digitized sound files that are downloaded onto a device
11 and that may be used to alert the customer with respect to a communication.

12 (b) "Ringtones" shall not include ringback tones or other digital files that are not
13 stored on the purchaser's communications device;

14 (38) (a) "Sale" means:

15 1. The furnishing of any services included in KRS 139.200;

16 2. Any transfer of title or possession, exchange, barter, lease, or rental,
17 conditional or otherwise, in any manner or by any means whatsoever, of:

18 a. Tangible personal property; or

19 b. Digital property transferred electronically;

20 for a consideration.

21 (b) "Sale" includes but is not limited to:

22 1. The producing, fabricating, processing, printing, or imprinting of
23 tangible personal property or digital property for a consideration for
24 purchasers who furnish, either directly or indirectly, the materials used
25 in the producing, fabricating, processing, printing, or imprinting;

26 2. A transaction whereby the possession of tangible personal property or
27 digital property is transferred, but the seller retains the title as security

1 for the payment of the price; and

2 3. A transfer for a consideration of the title or possession of tangible
3 personal property or digital property which has been produced,
4 fabricated, or printed to the special order of the purchaser.

5 (c) This definition shall apply regardless of the classification of a transaction
6 under generally accepted accounting principles, the Internal Revenue Code, or
7 other provisions of federal, state, or local law;

8 (39) "Seller" includes every person engaged in the business of selling tangible personal
9 property, digital property, or services of a kind, the gross receipts from the retail
10 sale of which are required to be included in the measure of the sales tax, and every
11 person engaged in making sales for resale;

12 (40) (a) "Storage" includes any keeping or retention in this state for any purpose
13 except sale in the regular course of business or subsequent use solely outside
14 this state of tangible personal property or digital property purchased from a
15 retailer.

16 (b) "Storage" does not include the keeping, retaining, or exercising any right or
17 power over tangible personal property for the purpose of subsequently
18 transporting it outside the state for use thereafter solely outside the state, or for
19 the purpose of being processed, fabricated, or manufactured into, attached to,
20 or incorporated into, other tangible personal property to be transported outside
21 the state and thereafter used solely outside the state;

22 (41) "Tangible personal property" means personal property which may be seen, weighed,
23 measured, felt, or touched, or which is in any other manner perceptible to the senses
24 and includes natural, artificial, and mixed gas, electricity, water, steam, and
25 prewritten computer software;

26 (42) "Taxpayer" means any person liable for tax under this chapter;

27 (43) "Transferred electronically" means accessed or obtained by the purchaser by means

1 other than tangible storage media; and

2 (44) (a) "Use" includes the exercise of:

3 1. Any right or power over tangible personal property or digital property
4 incident to the ownership of that property, or by any transaction in which
5 possession is given, or by any transaction involving digital property
6 where the right of access is granted; or

7 2. Any right or power to benefit from extended warranty services.

8 (b) "Use" does not include the keeping, retaining, or exercising any right or power
9 over tangible personal property or digital property for the purpose of:

10 1. Selling tangible personal property or digital property in the regular
11 course of business; or

12 2. Subsequently transporting tangible personal property outside the state
13 for use thereafter solely outside the state, or for the purpose of being
14 processed, fabricated, or manufactured into, attached to, or incorporated
15 into, other tangible personal property to be transported outside the state
16 and thereafter used solely outside the state.

17 ➔Section 8. KRS 139.200 is amended to read as follows:

18 A tax is hereby imposed upon all retailers at the rate of six percent (6%) of the gross
19 receipts derived from:

20 (1) Retail sales of:

21 (a) Tangible personal property, regardless of the method of delivery, made within
22 this Commonwealth; and

23 (b) Digital property regardless of whether:

24 1. The purchaser has the right to permanently use the property;

25 2. The purchaser's right to access or retain the property is not permanent; or

26 3. The purchaser's right of use is conditioned upon continued payment; and

27 (2) The furnishing of the following:

- 1 (a) The rental of any room or rooms, lodgings, campsites, or accommodations
 2 furnished by any hotel, motel, inn, tourist camp, tourist cabin, campgrounds,
 3 recreational vehicle parks, or any other place in which rooms, lodgings,
 4 campsites, or accommodations are regularly furnished to transients for a
 5 consideration. The tax shall not apply to rooms, lodgings, campsites, or
 6 accommodations supplied for a continuous period of thirty (30) days or more
 7 to a person;
- 8 (b) Sewer services;
- 9 (c) The sale of admissions, except:
- 10 1. Admissions to racetracks taxed under KRS 138.480;
- 11 2. Admissions to historical sites exempt under KRS 139.482;
- 12 3. Admissions taxed under KRS 229.031;
- 13 4. Admissions that are charged by nonprofit educational, charitable, or
 14 religious institutions and for which an exemption is provided under KRS
 15 139.495; and
- 16 5. Admissions that are charged by nonprofit civic, governmental, or other
 17 nonprofit organizations and for which an exemption is provided under
 18 KRS 139.498;
- 19 (d) Prepaid calling service and prepaid wireless calling service;
- 20 (e) 1. Intrastate, interstate, and international communications services; and ~~as~~
 21 ~~defined in KRS 139.195, except the furnishing of]~~
- 22 2. Pay telephone service furnished prior to July 1, 2021 ~~as defined in~~
 23 ~~KRS 139.195~~;
- 24 (f) Distribution, transmission, or transportation services for natural gas that is for
 25 storage, use, or other consumption in this state, excluding those services
 26 furnished:
- 27 1. For natural gas that is classified as residential use as provided in KRS

- 1 139.470(7); or
- 2 2. To a seller or reseller of natural gas;
- 3 (g) Landscaping services, including but not limited to:
- 4 1. Lawn care and maintenance services;
- 5 2. Tree trimming, pruning, or removal services;
- 6 3. Landscape design and installation services;
- 7 4. Landscape care and maintenance services; and
- 8 5. Snow plowing or removal services;
- 9 (h) Janitorial services, including but not limited to residential and commercial
- 10 cleaning services, and carpet, upholstery, and window cleaning services;
- 11 (i) Small animal veterinary services, excluding veterinary services for equine,
- 12 cattle, poultry, swine, sheep, goats, llamas, alpacas, ratite birds, buffalo, and
- 13 cervids;
- 14 (j) Pet care services, including but not limited to grooming and boarding services,
- 15 pet sitting services, and pet obedience training services;
- 16 (k) Industrial laundry services, including but not limited to industrial uniform
- 17 supply services, protective apparel supply services, and industrial mat and rug
- 18 supply services;
- 19 (l) Non-coin-operated laundry and dry cleaning services;
- 20 (m) Linen supply services, including but not limited to table and bed linen supply
- 21 services and nonindustrial uniform supply services;
- 22 (n) Indoor skin tanning services, including but not limited to tanning booth or
- 23 tanning bed services and spray tanning services;
- 24 (o) Non-medical diet and weight reducing services;
- 25 (p) Limousine services, if a driver is provided; and
- 26 (q) Extended warranty services.

27 ➔Section 9. KRS 139.470 is amended to read as follows:

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

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

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

8 (a) Nonreturnable and returnable containers when sold without the contents to
9 persons who place the contents in the container and sell the contents together
10 with the container; and

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

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

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

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

25 (5) **Prior to July 1, 2021,** gross receipts from sales of tangible personal property sold
26 through coin-operated bulk vending machines, if the sale amounts to fifty cents
27 (\$0.50) or less, if the retailer is primarily engaged in making the sales and maintains

1 records satisfactory to the department. As used in this subsection, "bulk vending
2 machine" means a vending machine containing unsorted merchandise which, upon
3 insertion of a coin, dispenses the same in approximately equal portions, at random
4 and without selection by the customer;

5 (6) Gross receipts from sales to any cabinet, department, bureau, commission, board, or
6 other statutory or constitutional agency of the state and gross receipts from sales to
7 counties, cities, or special districts as defined in KRS 65.005. This exemption shall
8 apply only to purchases of tangible personal property, digital property, or services
9 for use solely in the government function. A purchaser not qualifying as a
10 governmental agency or unit shall not be entitled to the exemption even though the
11 purchaser may be the recipient of public funds or grants;

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

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

- 20 1. Classified as "residential" by a utility company as defined by applicable
21 tariffs filed with and accepted by the Public Service Commission;
- 22 2. Classified as "residential" by a municipally owned electric distributor
23 which purchases its power at wholesale from the Tennessee Valley
24 Authority;
- 25 3. Classified as "residential" by the governing body of a municipally owned
26 electric distributor which does not purchase its power from the
27 Tennessee Valley Authority, if the "residential" classification is

1 reasonably consistent with the definitions of "residential" contained in
2 tariff filings accepted and approved by the Public Service Commission
3 with respect to utilities which are subject to Public Service Commission
4 regulation.

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

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

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

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

20 (9) (a) Gross receipts derived from the sale of tangible personal property, as provided
21 in paragraph (b) of this subsection, to a manufacturer or industrial processor if
22 the property is to be directly used in the manufacturing or industrial
23 processing process of:

- 24 1. Tangible personal property at a plant facility;
- 25 2. Distilled spirits or wine at a plant facility or on the premises of a
26 distiller, rectifier, winery, or small farm winery licensed under KRS
27 243.030 that includes a retail establishment on the premises; or

- 1 3. Malt beverages at a plant facility or on the premises of a brewer or
2 microbrewery licensed under KRS 243.040 that includes a retail
3 establishment;
4 and which will be for sale.
- 5 (b) The following tangible personal property shall qualify for exemption under
6 this subsection:
- 7 1. Materials which enter into and become an ingredient or component part
8 of the manufactured product;
- 9 2. Other tangible personal property which is directly used in the
10 manufacturing or industrial processing process, if the property has a
11 useful life of less than one (1) year. Specifically these items are
12 categorized as follows:
- 13 a. Materials. This refers to the raw materials which become an
14 ingredient or component part of supplies or industrial tools exempt
15 under subdivisions b. and c. below;
- 16 b. Supplies. This category includes supplies such as lubricating and
17 compounding oils, grease, machine waste, abrasives, chemicals,
18 solvents, fluxes, anodes, filtering materials, fire brick, catalysts,
19 dyes, refrigerants, and explosives. The supplies indicated above
20 need not come in direct contact with a manufactured product to be
21 exempt. "Supplies" does not include repair, replacement, or spare
22 parts of any kind; and
- 23 c. Industrial tools. This group is limited to hand tools such as jigs,
24 dies, drills, cutters, rolls, reamers, chucks, saws, and spray guns
25 and to tools attached to a machine such as molds, grinding balls,
26 grinding wheels, dies, bits, and cutting blades. Normally, for
27 industrial tools to be considered directly used in the manufacturing

1 or industrial processing process, they shall come into direct contact
2 with the product being manufactured or processed; and

3 3. Materials and supplies that are not reusable in the same manufacturing
4 or industrial processing process at the completion of a single
5 manufacturing or processing cycle. A single manufacturing cycle shall
6 be considered to be the period elapsing from the time the raw materials
7 enter into the manufacturing process until the finished product emerges
8 at the end of the manufacturing process.

9 (c) The property described in paragraph (b) of this subsection shall be regarded as
10 having been purchased for resale.

11 (d) For purposes of this subsection, a manufacturer or industrial processor
12 includes an individual or business entity that performs only part of the
13 manufacturing or industrial processing activity, and the person or business
14 entity need not take title to tangible personal property that is incorporated into,
15 or becomes the product of, the activity.

16 (e) The exemption provided in this subsection does not include repair,
17 replacement, or spare parts;

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

22 (11) Gross receipts from the sale of newspaper inserts or catalogs purchased for storage,
23 use, or other consumption outside this state and delivered by the retailer's own
24 vehicle to a location outside this state, or delivered to the United States Postal
25 Service, a common carrier, or a contract carrier for delivery outside this state,
26 regardless of whether the carrier is selected by the purchaser or retailer or an agent
27 or representative of the purchaser or retailer, or whether the F.O.B. is retailer's

1 shipping point or purchaser's destination.

2 (a) As used in this subsection:

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

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

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

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

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

19 (a) As used in this subsection, "metal retail fixtures" means check stands and
20 belted and nonbelted checkout counters, whether made in bulk or pursuant to
21 specific purchaser specifications, that are to be used directly by the purchaser
22 or to be distributed by the purchaser.

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

26 (14) Gross receipts from the sale of unenriched or enriched uranium purchased for
27 ultimate storage, use, or other consumption outside this state and delivered to a

1 common carrier in this state for delivery outside this state, regardless of whether the
2 carrier is selected by the purchaser or retailer, or is an agent or representative of the
3 purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or
4 purchaser's destination;

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

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

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

18 (18) The amount of any tax imposed by the United States upon or with respect to retail
19 sales, whether imposed on the retailer or the consumer, not including any
20 manufacturer's excise or import duty;

21 (19) Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which
22 is:

23 (a) Sold to a Kentucky resident, registered for use on the public highways, and
24 upon which any applicable tax levied by KRS 138.460 has been paid; or

25 (b) Sold to a nonresident of Kentucky if the nonresident registers the motor
26 vehicle in a state that:

27 1. Allows residents of Kentucky to purchase motor vehicles without

- 1 payment of that state's sales tax at the time of sale; or
- 2 2. Allows residents of Kentucky to remove the vehicle from that state
- 3 within a specific period for subsequent registration and use in Kentucky
- 4 without payment of that state's sales tax;
- 5 (20) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and
- 6 trailer as defined in KRS 189.010(17);
- 7 (21) Gross receipts from the collection of:
- 8 (a) Any fee or charge levied by a local government pursuant to KRS 65.760;
- 9 (b) The charge imposed by KRS 65.7629(3);
- 10 (c) The fee imposed by KRS 65.7634; and
- 11 (d) The service charge imposed by KRS 65.7636;
- 12 (22) Gross receipts derived from charges for labor or services to apply, install, repair, or
- 13 maintain tangible personal property directly used in manufacturing or industrial
- 14 processing process of:
- 15 (a) Tangible personal property at a plant facility;
- 16 (b) Distilled spirits or wine at a plant facility or on the premises of a distiller,
- 17 rectifier, winery, or small farm winery licensed under KRS 243.030; or
- 18 (c) Malt beverages at a plant facility or on the premises of a brewer or
- 19 microbrewery licensed under KRS 243.040
- 20 that is not otherwise exempt under subsection (9) of this section or KRS
- 21 139.480(10), if the charges for labor or services are separately stated on the invoice,
- 22 bill of sale, or similar document given to purchaser;
- 23 (23) (a) For persons selling services included in KRS 139.200(2)(g) to (q) prior to
- 24 January 1, 2019, gross receipts derived from the sale of those services if the
- 25 gross receipts were less than six thousand dollars (\$6,000) during calendar
- 26 year 2018. When gross receipts from these services exceed six thousand
- 27 dollars (\$6,000) in a calendar year:

- 1 1. All gross receipts over six thousand dollars (\$6,000) are taxable in that
2 calendar year; and
- 3 2. All gross receipts are subject to tax in subsequent calendar years.
- 4 (b) The exemption provided in this subsection shall not apply to a person also
5 engaged in the business of selling tangible personal property, digital property,
6 or services included in KRS 139.200(2)(a) to (f); and
- 7 (24) (a) For persons that first begin making sales of services included in KRS
8 139.200(2)(g) to (q) on or after January 1, 2019, gross receipts derived from
9 the sale of those services if the gross receipts are less than six thousand dollars
10 (\$6,000) within the first calendar year of operation. When gross receipts from
11 these services exceed six thousand dollars (\$6,000) in a calendar year:
- 12 1. All gross receipts over six thousand dollars (\$6,000) are taxable in that
13 calendar year; and
- 14 2. All gross receipts are subject to tax in subsequent calendar years.
- 15 (b) The exemption provided in this subsection shall not apply to a person that is
16 also engaged in the business of selling tangible personal property, digital
17 property, or services included in KRS 139.200(2)(a) to (f).
- 18 ➔Section 10. KRS 139.480 is amended to read as follows:
- 19 Any other provision of this chapter to the contrary notwithstanding, the terms "sale at
20 retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not
21 include the sale, use, storage, or other consumption of:
- 22 (1) Locomotives or rolling stock, including materials for the construction, repair, or
23 modification thereof, or fuel or supplies for the direct operation of locomotives and
24 trains, used or to be used in interstate commerce;
- 25 (2) Coal for the manufacture of electricity;
- 26 (3) (a) All energy or energy-producing fuels used in the course of manufacturing,
27 processing, mining, or refining and any related distribution, transmission, and

1 transportation services for this energy that are billed to the user, to the extent
2 that the cost of the energy or energy-producing fuels used, and related
3 distribution, transmission, and transportation services for this energy that are
4 billed to the user exceed three percent (3%) of the cost of production.

5 (b) Cost of production shall be computed on the basis of a plant facility, which
6 shall include all operations within the continuous, unbroken, integrated
7 manufacturing or industrial processing process that ends with a product
8 packaged and ready for sale.

9 (c) A person who performs a manufacturing or industrial processing activity for a
10 fee and does not take ownership of the tangible personal property that is
11 incorporated into, or becomes the product of, the manufacturing or industrial
12 processing activity is a toller. For periods on or after July 1, 2018, the costs of
13 the tangible personal property shall be excluded from the toller's cost of
14 production at a plant facility with tolling operations in place as of July 1,
15 2018.

16 (d) For plant facilities that begin tolling operations after July 1, 2018, the costs of
17 tangible personal property shall be excluded from the toller's cost of
18 production if the toller:

19 1. Maintains a binding contract for periods after July 1, 2018, that governs
20 the terms, conditions, and responsibilities with a separate legal entity,
21 which holds title to the tangible personal property that is incorporated
22 into, or becomes the product of, the manufacturing or industrial
23 processing activity;

24 2. Maintains accounting records that show the expenses it incurs to fulfill
25 the binding contract that include but are not limited to energy or energy-
26 producing fuels, materials, labor, procurement, depreciation,
27 maintenance, taxes, administration, and office expenses;

- 1 3. Maintains separate payroll, bank accounts, tax returns, and other records
2 that demonstrate its independent operations in the performance of its
3 tolling responsibilities;
- 4 4. Demonstrates one (1) or more substantial business purposes for the
5 tolling operations germane to the overall manufacturing, industrial
6 processing activities, or corporate structure at the plant facility. A
7 business purpose is a purpose other than the reduction of sales tax
8 liability for the purchases of energy and energy-producing fuels; and
- 9 5. Provides information to the department upon request that documents
10 fulfillment of the requirements in subparagraphs 1. to 4. of this
11 paragraph and gives an overview of its tolling operations with an
12 explanation of how the tolling operations relate and connect with all
13 other manufacturing or industrial processing activities occurring at the
14 plant facility.
- 15 (4) Livestock of a kind the products of which ordinarily constitute food for human
16 consumption, provided the sales are made for breeding or dairy purposes and by or
17 to a person regularly engaged in the business of farming;
- 18 (5) Poultry for use in breeding or egg production;
- 19 (6) Farm work stock for use in farming operations;
- 20 (7) Seeds, the products of which ordinarily constitute food for human consumption or
21 are to be sold in the regular course of business, and commercial fertilizer to be
22 applied on land, the products from which are to be used for food for human
23 consumption or are to be sold in the regular course of business; provided such sales
24 are made to farmers who are regularly engaged in the occupation of tilling and
25 cultivating the soil for the production of crops as a business, or who are regularly
26 engaged in the occupation of raising and feeding livestock or poultry or producing
27 milk for sale; and provided further that tangible personal property so sold is to be

- 1 used only by those persons designated above who are so purchasing;
- 2 (8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be
3 used in the production of crops as a business, or in the raising and feeding of
4 livestock or poultry, the products of which ordinarily constitute food for human
5 consumption;
- 6 (9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the
7 products of which ordinarily constitute food for human consumption;
- 8 (10) Machinery for new and expanded industry;
- 9 (11) Farm machinery. As used in this section, the term "farm machinery":
- 10 (a) Means machinery used exclusively and directly in the occupation of:
- 11 1. Tilling the soil for the production of crops as a business;
- 12 2. Raising and feeding livestock or poultry for sale; or
- 13 3. Producing milk for sale;
- 14 (b) Includes machinery, attachments, and replacements therefor, repair parts, and
15 replacement parts which are used or manufactured for use on, or in the
16 operation of farm machinery and which are necessary to the operation of the
17 machinery, and are customarily so used, including but not limited to combine
18 header wagons, combine header trailers, or any other implements specifically
19 designed and used to move or transport a combine head; and
- 20 (c) Does not include:
- 21 1. Automobiles;
- 22 2. Trucks;
- 23 3. Trailers, except combine header trailers; or
- 24 4. Truck-trailer combinations;
- 25 ~~(12) Tombstones and other memorial grave markers;~~
- 26 ~~(13)~~ On-farm facilities used exclusively for grain or soybean storing, drying, processing,
27 or handling. The exemption applies to the equipment, machinery, attachments,

1 repair and replacement parts, and any materials incorporated into the construction,
2 renovation, or repair of the facilities;

3 ~~(13)~~~~(14)~~ On-farm facilities used exclusively for raising poultry or livestock. The
4 exemption shall apply to the equipment, machinery, attachments, repair and
5 replacement parts, and any materials incorporated into the construction, renovation,
6 or repair of the facilities. The exemption shall apply but not be limited to vent board
7 equipment, waterer and feeding systems, brooding systems, ventilation systems,
8 alarm systems, and curtain systems. In addition, the exemption shall apply whether
9 or not the seller is under contract to deliver, assemble, and incorporate into real
10 estate the equipment, machinery, attachments, repair and replacement parts, and any
11 materials incorporated into the construction, renovation, or repair of the facilities;

12 ~~(14)~~~~(15)~~ Gasoline, special fuels, liquefied petroleum gas, and natural gas used
13 exclusively and directly to:

- 14 (a) Operate farm machinery as defined in subsection (11) of this section;
- 15 (b) Operate on-farm grain or soybean drying facilities as defined in subsection
16 ~~(12)~~~~(13)~~ of this section;
- 17 (c) Operate on-farm poultry or livestock facilities defined in subsection ~~(13)~~~~(14)~~
18 of this section;
- 19 (d) Operate on-farm ratite facilities defined in subsection ~~(22)~~~~(23)~~ of this
20 section;
- 21 (e) Operate on-farm llama or alpaca facilities as defined in subsection ~~(24)~~~~(25)~~
22 of this section; or
- 23 (f) Operate on-farm dairy facilities;

24 ~~(15)~~~~(16)~~ Textbooks, including related workbooks and other course materials, purchased
25 for use in a course of study conducted by an institution which qualifies as a
26 nonprofit educational institution under KRS 139.495. The term "course materials"
27 means only those items specifically required of all students for a particular course

1 but shall not include notebooks, paper, pencils, calculators, tape recorders, or
2 similar student aids;

3 ~~(16)~~~~(17)~~ Any property which has been certified as an alcohol production facility as
4 defined in KRS 247.910;

5 ~~(17)~~~~(18)~~ Aircraft, repair and replacement parts therefor, and supplies, except fuel, for
6 the direct operation of aircraft in interstate commerce and used exclusively for the
7 conveyance of property or passengers for hire. Nominal intrastate use shall not
8 subject the property to the taxes imposed by this chapter;

9 ~~(18)~~~~(19)~~ **Prior to July 1, 2021**, any property which has been certified as a fluidized bed
10 energy production facility as defined in KRS 211.390;

11 ~~(19)~~~~(20)~~ (a) 1. Any property to be incorporated into the construction, rebuilding,
12 modification, or expansion of a blast furnace or any of its components or
13 appurtenant equipment or structures as part of an approved supplemental
14 project, as defined by KRS 154.26-010; and

15 2. Materials, supplies, and repair or replacement parts purchased for use in
16 the operation and maintenance of a blast furnace and related carbon
17 steel-making operations as part of an approved supplemental project, as
18 defined by KRS 154.26-010.

19 (b) The exemptions provided in this subsection shall be effective for sales made:

20 1. On and after July 1, 2018; and

21 2. During the term of a supplemental project agreement entered into
22 pursuant to KRS 154.26-090;

23 ~~(20)~~~~(21)~~ Beginning on October 1, 1986, food or food products purchased for human
24 consumption with food coupons issued by the United States Department of
25 Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to
26 be exempted by the Food Security Act of 1985 in order for the Commonwealth to
27 continue participation in the federal food stamp program;

1 ~~(21)~~~~(22)~~ Machinery or equipment purchased or leased by a business, industry, or
2 organization in order to collect, source separate, compress, bale, shred, or otherwise
3 handle waste materials if the machinery or equipment is primarily used for recycling
4 purposes;

5 ~~(22)~~~~(23)~~ Ratite birds and eggs to be used in an agricultural pursuit for the breeding and
6 production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-
7 products, and the following items used in this agricultural pursuit:

- 8 (a) Feed and feed additives;
- 9 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
- 10 (c) On-farm facilities, including equipment, machinery, attachments, repair and
11 replacement parts, and any materials incorporated into the construction,
12 renovation, or repair of the facilities. The exemption shall apply to incubation
13 systems, egg processing equipment, waterer and feeding systems, brooding
14 systems, ventilation systems, alarm systems, and curtain systems. In addition,
15 the exemption shall apply whether or not the seller is under contract to deliver,
16 assemble, and incorporate into real estate the equipment, machinery,
17 attachments, repair and replacement parts, and any materials incorporated into
18 the construction, renovation, or repair of the facilities;

19 ~~(23)~~~~(24)~~ Embryos and semen that are used in the reproduction of livestock, if the
20 products of these embryos and semen ordinarily constitute food for human
21 consumption, and if the sale is made to a person engaged in the business of farming;

22 ~~(24)~~~~(25)~~ Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit
23 for the breeding and production of hides, breeding stock, fiber and wool products,
24 meat, and llama and alpaca by-products, and the following items used in this
25 pursuit:

- 26 (a) Feed and feed additives;
- 27 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

1 and

2 (c) On-farm facilities, including equipment, machinery, attachments, repair and
3 replacement parts, and any materials incorporated into the construction,
4 renovation, or repair of the facilities. The exemption shall apply to waterer
5 and feeding systems, ventilation systems, and alarm systems. In addition, the
6 exemption shall apply whether or not the seller is under contract to deliver,
7 assemble, and incorporate into real estate the equipment, machinery,
8 attachments, repair and replacement parts, and any materials incorporated into
9 the construction, renovation, or repair of the facilities;

10 ~~(25)~~~~(26)~~ Baling twine and baling wire for the baling of hay and straw;

11 ~~(26)~~~~(27)~~ Water sold to a person regularly engaged in the business of farming and used
12 in the:

13 (a) Production of crops;

14 (b) Production of milk for sale; or

15 (c) Raising and feeding of:

16 1. Livestock or poultry, the products of which ordinarily constitute food for
17 human consumption; or

18 2. Ratites, llamas, alpacas, buffalo, cervids or aquatic organisms;

19 ~~(27)~~~~(28)~~ Buffalos to be used as beasts of burden or in an agricultural pursuit for the
20 production of hides, breeding stock, meat, and buffalo by-products, and the
21 following items used in this pursuit:

22 (a) Feed and feed additives;

23 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

24 (c) On-farm facilities, including equipment, machinery, attachments, repair and
25 replacement parts, and any materials incorporated into the construction,
26 renovation, or repair of the facilities. The exemption shall apply to waterer
27 and feeding systems, ventilation systems, and alarm systems. In addition, the

1 exemption shall apply whether or not the seller is under contract to deliver,
2 assemble, and incorporate into real estate the equipment, machinery,
3 attachments, repair and replacement parts, and any materials incorporated into
4 the construction, renovation, or repair of the facilities;

5 ~~(28)~~~~(29)~~ Aquatic organisms sold directly to or raised by a person regularly engaged in
6 the business of producing products of aquaculture, as defined in KRS 260.960, for
7 sale, and the following items used in this pursuit:

8 (a) Feed and feed additives;

9 (b) Water;

10 (c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
11 and

12 (d) On-farm facilities, including equipment, machinery, attachments, repair and
13 replacement parts, and any materials incorporated into the construction,
14 renovation, or repair of the facilities and, any gasoline, special fuels, liquefied
15 petroleum gas, or natural gas used to operate the facilities. The exemption
16 shall apply, but not be limited to: waterer and feeding systems; ventilation,
17 aeration, and heating systems; processing and storage systems; production
18 systems such as ponds, tanks, and raceways; harvest and transport equipment
19 and systems; and alarm systems. In addition, the exemption shall apply
20 whether or not the seller is under contract to deliver, assemble, and
21 incorporate into real estate the equipment, machinery, attachments, repair and
22 replacement parts, and any materials incorporated into the construction,
23 renovation, or repair of the facilities;

24 ~~(29)~~~~(30)~~ Members of the genus cervidae permitted by KRS Chapter 150 that are used
25 for the production of hides, breeding stock, meat, and cervid by-products, and the
26 following items used in this pursuit:

27 (a) Feed and feed additives;

- 1 (b) Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and
- 2 (c) On-site facilities, including equipment, machinery, attachments, repair and
- 3 replacement parts, and any materials incorporated into the construction,
- 4 renovation, or repair of the facilities. In addition, the exemption shall apply
- 5 whether or not the seller is under contract to deliver, assemble, and
- 6 incorporate into real estate the equipment, machinery, attachments, repair and
- 7 replacement parts, and any materials incorporated into the construction,
- 8 renovation, or repair of the facilities;
- 9 ~~(30)~~~~(31)~~ (a) Repair or replacement parts for the direct operation or maintenance of a
- 10 motor vehicle, including any towed unit, used exclusively in interstate
- 11 commerce for the conveyance of property or passengers for hire, provided the
- 12 motor vehicle is licensed for use on the highway and its declared gross vehicle
- 13 weight with any towed unit is forty-four thousand and one (44,001) pounds or
- 14 greater. Nominal intrastate use shall not subject the property to the taxes
- 15 imposed by this chapter;
- 16 (b) Repair or replacement parts *sold or purchased prior to July 1, 2021*, for the
- 17 direct operation and maintenance of a motor vehicle operating under a charter
- 18 bus certificate issued by the Transportation Cabinet under KRS Chapter 281,
- 19 or under similar authority granted by the United States Department of
- 20 Transportation; and
- 21 (c) For the purposes of this subsection, "repair or replacement parts" means tires,
- 22 brakes, engines, transmissions, drive trains, chassis, body parts, and their
- 23 components. "Repair or replacement parts" shall not include fuel, machine
- 24 oils, hydraulic fluid, brake fluid, grease, supplies, or accessories not essential
- 25 to the operation of the motor vehicle itself, except when sold as part of the
- 26 assembled unit, such as cigarette lighters, radios, lighting fixtures not
- 27 otherwise required by the manufacturer for operation of the vehicle, or tool or

1 utility boxes; and

2 ~~(31)~~~~(32)~~ Food donated by a retail food establishment or any other entity regulated
3 under KRS 217.127 to a nonprofit organization for distribution to the needy.

4 ➔Section 11. KRS 139.505 is amended to read as follows:

5 (1) For the purpose of this section, "gross receipts" means:

6 (a) Sales of tangible personal property in this state if:

- 7 1. The property is delivered or shipped to a purchaser, other than the
8 United States government, or to the designee of the purchaser within this
9 state regardless of the f.o.b. point or other conditions of the sale; or
10 2. The property is shipped from an office, store, warehouse, factory, or
11 other place of storage in this state and the purchaser is the United States
12 government; and

13 (b) Sales other than sales of tangible personal property in this state if the income-
14 producing activity is performed in this state; or the income-producing activity
15 is performed both in and outside this state and a greater proportion of the
16 income-producing activity is performed in this state than in any other state,
17 based on cost of performance, or gross receipt allocation method as provided
18 by statute and elected by the taxpayer.

19 (2) Prior to July 1, 2021, any business whose interstate communications service,
20 subject to the sales tax imposed under KRS Chapter 139 and deducted for federal
21 income tax purposes, exceeds five percent (5%) of the business's Kentucky gross
22 receipts during the preceding calendar year is entitled to a refundable credit if:

23 (a) The business's annual Kentucky gross receipts are equal to or more than one
24 million dollars (\$1,000,000); and

25 (b) The majority of the interstate communications service billed to a Kentucky
26 service address for the annual period is for communications service
27 originating outside of this state and terminating in this state.

- 1 (3) The refundable credit shall be equal to the sales tax paid on the difference by which
2 the interstate communications service purchased by the business exceeds five
3 percent (5%) of the business's Kentucky gross receipts.
- 4 (4) Any business that qualifies for the refundable credit authorized by subsection (2) of
5 this section shall make an annual application for the refund on or after June 1, 2002,
6 and on or after every June 1 thereafter. The application shall be made to the
7 department on forms as the department may prescribe and shall contain information
8 regarding interstate communications service purchases and any other information
9 deemed necessary for the department to determine the business's eligibility to
10 receive a refund.
- 11 (5) Notwithstanding the provisions of KRS 134.580 to the contrary, the department,
12 upon receipt of a properly documented refund application, shall cause a timely
13 refund to be made directly to the eligible business. Interest shall not be allowed or
14 paid on any refund made under this section.
- 15 (6) To facilitate the administration of the refundable tax credit, the department shall
16 grant eligible businesses that apply for the tax credit permission to directly report
17 and pay the sales tax applicable to the purchase of communications service. Once
18 the business receives permission to directly report and pay the tax, refunds issued
19 according to subsection (2) of this section shall not include any sales tax collected
20 and paid by a communications service provider.
- 21 (7) Any refund application submitted under this section is subject to examination by the
22 department. The examination shall occur within four (4) years from the date the
23 refund application is received by the department. Any overpayment resulting from
24 the examination shall be repaid to the State Treasury. In addition, the amount
25 required to be repaid is subject to the interest provisions of KRS 131.183 and to the
26 penalty provisions of KRS 131.180.
- 27 (8) If a business owns directly or indirectly fifty percent (50%) or more of another

1 business, the credit computed under subsection (2) of this section shall be computed
2 on a combined basis, excluding any intercompany Kentucky gross receipts.

3 ➔Section 12. KRS 139.518 is amended to read as follows:

4 (1) "Energy efficiency project" means a project undertaken by a person engaged in
5 manufacturing whereby the person purchases new or replacement machinery or
6 equipment that reduces the consumption of energy or energy-producing fuels in the
7 manufacturing process at a plant facility in this state by at least fifteen percent
8 (15%) measured in megawatts, gallons, or other measurable units of energy, while
9 maintaining or increasing the number of units of production for that same period.

10 For purposes of this section, "machinery or equipment" does not include:

11 (a) Windows, lighting, or other improvements to buildings; or

12 (b) Repair, replacement, and spare parts as defined in KRS 139.010.

13 (2) (a) The consumption reduction and the production rate shall be calculated by
14 comparing the consumption and production rates during a twelve (12) month
15 period immediately after the new or replacement machinery or equipment is
16 placed in service with the consumption and production rates for the twelve
17 (12) month period submitted with the application for preapproval as required
18 in subsection (4) of this section.

19 (b) If the manufacturer believes that the method described in paragraph (a) of this
20 subsection does not accurately reflect the reduction in energy or energy-
21 producing fuels used in the manufacturing process, the manufacturer may
22 submit additional information to the department for consideration.

23 (3) Notwithstanding KRS 134.580(3) and 139.770, a person engaged in manufacturing
24 at a plant facility located in this state may apply for a refund equal to the amount of
25 Kentucky sales or use tax paid on the purchase of new or replacement machinery or
26 equipment for an energy efficiency project purchased on or after July 1, 2008, ***and***
27 ***before July 1, 2021***, reduced by the amount of vendor compensation allowed under

1 KRS 139.570.

2 (4) The manufacturer shall file an application for preapproval with the department, on a
3 form provided by the department, prior to purchasing the new or replacement
4 machinery or equipment that includes:

5 (a) A description of the new or replacement machinery or equipment;

6 (b) Documentation of the amount of energy or energy-producing fuels consumed
7 in the twelve (12) month period prior to the application for preapproval; and

8 (c) Any other information the department may request.

9 (5) The department shall acknowledge receipt of the application for preapproval.

10 (6) The manufacturer shall file an application for incentives that includes
11 documentation of:

12 (a) The achievement of the energy-efficiency standards required by subsection (1)
13 of this section within eighteen (18) months from the time the machinery or
14 equipment was placed in service; and

15 (b) Verification that the Kentucky sales and use tax was paid on the purchase of
16 the new or replacement machinery or equipment.

17 (7) The burden of proof that the purchase of the machinery or equipment resulted in a
18 decrease in the consumption of energy or energy-producing fuels shall be upon the
19 applicant.

20 (8) Interest shall not be allowed or paid on any refund made under this section.

21 ➔Section 13. KRS 139.537 is amended to read as follows:

22 (1) As used in this section, "coal-based near zero emission power plant" means a
23 facility designed to achieve minimum emissions, built in Kentucky for
24 demonstrating the feasibility of producing electricity and hydrogen from coal,
25 whose site has been determined acceptable from an environmental impact
26 perspective in a record of decision published by the United States Department of
27 Energy after January 1, 2006, and that has received all applicable local planning and

1 zoning approvals.

2 (2) Notwithstanding all other provisions of this chapter, effective July 1, 2006, the
3 taxes imposed by this chapter shall not apply to the sale, rental, storage, use, or
4 other consumption of tangible personal property used to construct, repair, renovate,
5 or upgrade a coal-based near zero emission power plant, including repair and
6 replacement parts purchased for the plant.

7 (3) The Cabinet for Economic Development, with input from the Energy and
8 Environment Cabinet, shall establish standards for making applications for the
9 exemptions provided in this section. Prior to the Cabinet for Economic
10 Development granting approval, the Office of the Budget Director shall determine if
11 the power plant results in a net positive economic impact to the Commonwealth and
12 shall provide a certification in writing to the Cabinet for Economic Development.
13 The Cabinet for Economic Development shall notify the department in writing that
14 a power plant has qualified for the exemptions.

15 (4) The Cabinet for Economic Development may promulgate administrative regulations
16 necessary to administer the application and certification process of this section.

17 (5) The department may promulgate administrative regulations necessary to administer
18 the exemptions provided in this section.

19 (6) The provisions of this section shall not apply to sales or purchases made after June
20 30, 2021~~[December 31, 2030]~~.

21 ➔Section 14. KRS 140.020 is amended to read as follows:

22 (1) The terms of this chapter shall apply to any property or interest therein, of which the
23 decedent has made a transfer by trust or otherwise, in contemplation of or intended
24 to take effect in possession or enjoyment at or after death, including a transfer under
25 which the transferor has retained for his life or any period not ending before his
26 death (a) the possession or enjoyment of, or the income from the property; or (b) the
27 actual or contingent power to designate the persons who shall possess the property

1 or the income therefrom, except in the case of a bona fide sale for an adequate and
 2 full consideration in money or money's worth. It shall further apply to any property
 3 conveyed in trust over which the settlor has a power of revocation exercisable by
 4 will.

5 (2) Every transfer made within three (3) years prior to the death of the grantor, vendor
 6 or donor of a material part of his estate, or in the nature of a final disposition or
 7 distribution thereof, and without an adequate valuable consideration, shall be
 8 construed prima facie to have been made in contemplation of death within the
 9 meaning of this chapter. If a transfer was made more than three (3) years prior to the
 10 death of the decedent it shall be a question of fact, to be determined by the proper
 11 tribunal, whether the transfer was made in contemplation of death.†

12 ~~(3) There shall be no presumption of contemplation of death as to certificates of deposit~~
 13 ~~jointly owned and all such certificates of deposit shall be taxed pursuant to KRS~~
 14 ~~140.050.†~~

15 ➔Section 15. KRS 141.0205 is amended to read as follows:

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

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

- 21 (a) The limited liability entity tax credit permitted by KRS 141.0401;
- 22 (b) The economic development credits computed under KRS 141.347, 141.381,
 23 141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-
 24 207, and 154.12-2088;
- 25 (c) The qualified farming operation credit permitted by KRS 141.412;
- 26 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 27 ~~{(e) The health insurance credit permitted by KRS 141.062;}~~

- 1 ~~(e)~~~~(f)~~ The tax paid to other states credit permitted by KRS 141.070;
- 2 ~~(g)~~ ~~The credit for hiring the unemployed permitted by KRS 141.065;~~
- 3 ~~(f)~~~~(h)~~ The recycling or composting equipment credit permitted by KRS
- 4 141.390;
- 5 ~~(g)~~~~(i)~~ The tax credit for cash contributions in investment funds permitted by
- 6 KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by
- 7 KRS 154.20-258;
- 8 ~~(h)~~~~(j)~~ The research facilities credit permitted by KRS 141.395;
- 9 ~~(k)~~ ~~The employer High School Equivalency Diploma program incentive credit~~
- 10 ~~permitted under KRS 151B.402;~~
- 11 ~~(i)~~~~(l)~~ The voluntary environmental remediation credit permitted by KRS
- 12 141.418;
- 13 ~~(j)~~~~(m)~~ The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 14 ~~(k)~~~~(n)~~ The clean coal incentive credit permitted by KRS 141.428;
- 15 ~~(l)~~~~(o)~~ The ethanol credit permitted by KRS 141.4242;
- 16 ~~(m)~~~~(p)~~ The cellulosic ethanol credit permitted by KRS 141.4244;
- 17 ~~(n)~~~~(q)~~ The energy efficiency credits permitted by KRS 141.436;
- 18 ~~(o)~~~~(r)~~ The railroad maintenance and improvement credit permitted by KRS
- 19 141.385;
- 20 ~~(p)~~~~(s)~~ The Endow Kentucky credit permitted by KRS 141.438;
- 21 ~~(q)~~~~(t)~~ The New Markets Development Program credit permitted by KRS
- 22 141.434;
- 23 ~~(r)~~~~(u)~~ The distilled spirits credit permitted by KRS 141.389;
- 24 ~~(s)~~~~(v)~~ The angel investor credit permitted by KRS 141.396;
- 25 ~~(t)~~~~(w)~~ The film industry credit permitted by KRS 141.383 for applications
- 26 approved on or after April 27, 2018;
- 27 ~~(u)~~~~(x)~~ The inventory credit permitted by KRS 141.408; and

- 1 ~~(v)~~~~(y)~~ The renewable chemical production credit permitted by KRS 141.4231.
- 2 (2) After the application of the nonrefundable credits in subsection (1) of this section,
3 the nonrefundable personal tax credits against the tax imposed by KRS 141.020
4 shall be taken in the following order:
- 5 (a) The individual credits permitted by KRS 141.020(3);
6 (b) The credit permitted by KRS 141.066;
7 (c) The tuition credit permitted by KRS 141.069;
8 (d) The household and dependent care credit permitted by KRS 141.067; and
9 (e) The income gap credit permitted by KRS 141.066.
- 10 (3) After the application of the nonrefundable credits provided for in subsection (2) of
11 this section, the refundable credits against the tax imposed by KRS 141.020 shall be
12 taken in the following order:
- 13 (a) The individual withholding tax credit permitted by KRS 141.350;
14 (b) The individual estimated tax payment credit permitted by KRS 141.305;
15 (c) The certified rehabilitation credit permitted by KRS 171.3961 and
16 171.397(1)(b); and
17 (d) The film industry tax credit permitted by KRS 141.383 for applications
18 approved prior to April 27, 2018.
- 19 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the
20 tax imposed by KRS 141.040.
- 21 (5) The following nonrefundable credits shall be applied against the sum of the tax
22 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)
23 of this section, and the tax imposed by KRS 141.0401 in the following order:
- 24 (a) The economic development credits computed under KRS 141.347, 141.381,
25 141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-
26 207, and 154.12-2088;
27 (b) The qualified farming operation credit permitted by KRS 141.412;

- 1 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 2 ~~{(d) The health insurance credit permitted by KRS 141.062;}~~
- 3 ~~{(e) The unemployment credit permitted by KRS 141.065;}~~
- 4 {(d)} ~~{(f)}~~ The recycling or composting equipment credit permitted by KRS
- 5 141.390;
- 6 {(e)} ~~{(g)}~~ The coal conversion credit permitted by KRS 141.041;
- 7 {(f)} ~~{(h)}~~ The enterprise zone credit permitted by KRS 154.45-090, for taxable
- 8 periods ending prior to January 1, 2008;
- 9 {(g)} ~~{(i)}~~ The tax credit for cash contributions to investment funds permitted by
- 10 KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by
- 11 KRS 154.20-258;
- 12 {(h)} ~~{(j)}~~ The research facilities credit permitted by KRS 141.395;
- 13 ~~{(k) The employer High School Equivalency Diploma program incentive credit~~
- 14 ~~permitted by KRS 151B.402;}~~
- 15 {(i)} ~~{(l)}~~ The voluntary environmental remediation credit permitted by KRS
- 16 141.418;
- 17 {(j)} ~~{(m)}~~ The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 18 {(k)} ~~{(n)}~~ The clean coal incentive credit permitted by KRS 141.428;
- 19 {(l)} ~~{(o)}~~ The ethanol credit permitted by KRS 141.4242;
- 20 {(m)} ~~{(p)}~~ The cellulosic ethanol credit permitted by KRS 141.4244;
- 21 {(n)} ~~{(q)}~~ The energy efficiency credits permitted by KRS 141.436;
- 22 {(o)} ~~{(r)}~~ The ENERGY STAR home or ENERGY STAR manufactured home
- 23 credit permitted by KRS 141.437;
- 24 {(p)} ~~{(s)}~~ The railroad maintenance and improvement credit permitted by KRS
- 25 141.385;
- 26 {(q)} ~~{(t)}~~ The railroad expansion credit permitted by KRS 141.386;
- 27 {(r)} ~~{(u)}~~ The Endow Kentucky credit permitted by KRS 141.438;

1 ~~(s)~~~~(v)~~ The New Markets Development Program credit permitted by KRS
2 141.434;

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

4 ~~(u)~~~~(x)~~ The film industry credit permitted by KRS 141.383 for applications
5 approved on or after April 27, 2018;

6 ~~(v)~~~~(y)~~ The inventory credit permitted by KRS 141.408; and

7 ~~(w)~~~~(z)~~ The renewable chemical production tax credit permitted by KRS
8 141.4231.

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

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

12 (b) The certified rehabilitation credit permitted by KRS 171.3961 and
13 171.397(1)(b); and

14 (c) The film industry tax credit permitted by KRS 141.383 for applications
15 approved prior to April 27, 2018.

16 ➔Section 16. KRS 141.039 is amended to read as follows:

17 ~~[For taxable years beginning on or after January 1, 2018,]~~In the case of corporations:

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

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

22 (b) Exclude all dividend income;

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

25 (d) **For taxable years beginning before January 1, 2021,** exclude fifty percent
26 (50%) of gross income derived from any disposal of coal covered by Section
27 631(c) of the Internal Revenue Code if the corporation does not claim any

- 1 deduction for percentage depletion, or for expenditures attributable to the
2 making and administering of the contract under which such disposition occurs
3 or to the preservation of the economic interests retained under such contract;
- 4 (e) Include the amount calculated under KRS 141.205;
- 5 (f) Ignore the provisions of Section 281 of the Internal Revenue Code in
6 computing gross income;
- 7 (g) Include the amount of depreciation deduction calculated under 26 U.S.C. sec.
8 167 or 168; and
- 9 (2) Net income shall be calculated by subtracting from gross income:
- 10 (a) The deduction for depreciation allowed by KRS 141.0101;
- 11 (b) Any amount paid for vouchers or similar instruments that provide health
12 insurance coverage to employees or their families;
- 13 (c) All the deductions from gross income allowed corporations by Chapter 1 of
14 the Internal Revenue Code, as modified by KRS 141.0101, except:
- 15 1. Any deduction for a state tax which is computed, in whole or in part, by
16 reference to gross or net income and which is paid or accrued to any
17 state of the United States, the District of Columbia, the Commonwealth
18 of Puerto Rico, any territory or possession of the United States, or to any
19 foreign country or political subdivision thereof;
- 20 2. The deductions contained in Sections 243, 245, and 247 of the Internal
21 Revenue Code;
- 22 3. The provisions of Section 281 of the Internal Revenue Code shall be
23 ignored in computing net income;
- 24 4. Any deduction directly or indirectly allocable to income which is either
25 exempt from taxation or otherwise not taxed under the provisions of this
26 chapter, and nothing in this chapter shall be construed to permit the
27 same item to be deducted more than once;

- 1 5. Any deduction for amounts paid to any club, organization, or
2 establishment which has been determined by the courts or an agency
3 established by the General Assembly and charged with enforcing the
4 civil rights laws of the Commonwealth, not to afford full and equal
5 membership and full and equal enjoyment of its goods, services,
6 facilities, privileges, advantages, or accommodations to any person
7 because of race, color, religion, national origin, or sex, except nothing
8 shall be construed to deny a deduction for amounts paid to any religious
9 or denominational club, group, or establishment or any organization
10 operated solely for charitable or educational purposes which restricts
11 membership to persons of the same religion or denomination in order to
12 promote the religious principles for which it is established and
13 maintained;
- 14 6. Any deduction prohibited by KRS 141.205; and
- 15 7. Any dividends-paid deduction of any captive real estate investment trust;
16 and
- 17 (d) 1. A deferred tax deduction in an amount computed in accordance with this
18 paragraph.
- 19 2. For purposes of this paragraph:
- 20 a. "Net deferred tax asset" means that deferred tax assets exceed the
21 deferred tax liabilities of the combined group, as computed in
22 accordance with accounting principles generally accepted in the
23 United States of America; and
- 24 b. "Net deferred tax liability" means deferred tax liabilities that
25 exceed the deferred tax assets of a combined group as defined in
26 KRS 141.202, as computed in accordance with accounting
27 principles generally accepted in the United States of America.

- 1 3. Only publicly traded companies, including affiliated corporations
2 participating in the filing of a publicly traded company's financial
3 statements prepared in accordance with accounting principles generally
4 accepted in the United States of America, as of January 1, 2019, shall be
5 eligible for this deduction.
- 6 4. If the provisions of KRS 141.202 result in an aggregate increase to the
7 member's net deferred tax liability, an aggregate decrease to the
8 member's net deferred tax asset, or an aggregate change from a net
9 deferred tax asset to a net deferred tax liability, the combined group
10 shall be entitled to a deduction, as determined in this paragraph.
- 11 5. For ten (10) years beginning with the combined group's first taxable year
12 beginning on or after January 1, 2024, a combined group shall be
13 entitled to a deduction from the combined group's entire net income
14 equal to one-tenth (1/10) of the amount necessary to offset the increase
15 in the net deferred tax liability, decrease in the net deferred tax asset, or
16 aggregate change from a net deferred tax asset to a net deferred tax
17 liability. The increase in the net deferred tax liability, decrease in the net
18 deferred tax asset, or the aggregate change from a net deferred tax asset
19 to a net deferred tax liability shall be computed based on the change that
20 would result from the imposition of the combined reporting requirement
21 under KRS 141.202, but for the deduction provided under this paragraph
22 as of June 27, 2019.
- 23 6. The deferred tax impact determined in subparagraph 5. of this paragraph
24 shall be converted to the annual deferred tax deduction amount, as
25 follows:
- 26 a. The deferred tax impact determined in subparagraph 5. of this
27 paragraph shall be divided by the tax rate determined under KRS

1 141.040;

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

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

10 7. The deduction calculated under this paragraph shall not be adjusted as a
11 result of any events happening subsequent to the calculation, including
12 but not limited to any disposition or abandonment of assets. The
13 deduction shall be calculated without regard to the federal tax effect and
14 shall not alter the tax basis of any asset. If the deduction under this
15 section is greater than the combined group's entire Kentucky net income,
16 any excess deduction shall be carried forward and applied as a deduction
17 to the combined group's entire net income in future taxable years until
18 fully utilized.

19 8. Any combined group intending to claim a deduction under this
20 paragraph shall file a statement with the department on or before July 1,
21 2019. The statement shall specify the total amount of the deduction
22 which the combined group claims on the form, including calculations
23 and other information supporting the total amounts of the deduction as
24 required by the department. No deduction shall be allowed under this
25 paragraph for any taxable year, except to the extent claimed on the
26 timely filed statement in accordance with this paragraph.

27 ➔Section 17. KRS 141.0401 is amended to read as follows:

1 (1) As used in this section:

2 (a) "Kentucky gross receipts" means an amount equal to the computation of the
3 numerator of the apportionment fraction under KRS 141.120, any
4 administrative regulations related to the computation of the sales factor, and
5 KRS 141.121 and includes the proportionate share of Kentucky gross receipts
6 of all wholly or partially owned limited liability pass-through entities,
7 including all layers of a multi-layered pass-through structure;

8 (b) "Gross receipts from all sources" means an amount equal to the computation
9 of the denominator of the apportionment fraction under KRS 141.120, any
10 administrative regulations related to the computation of the sales factor, and
11 KRS 141.121 and includes the proportionate share of gross receipts from all
12 sources of all wholly or partially owned limited liability pass-through entities,
13 including all layers of a multi-layered pass-through structure;

14 (c) "Affiliated group" has the same meaning as in KRS 141.201;

15 (d) "Cost of goods sold" means:

16 1. Amounts that are:

17 a. Allowable as cost of goods sold pursuant to the Internal Revenue
18 Code and any guidelines issued by the Internal Revenue Service
19 relating to cost of goods sold, unless modified by this paragraph;
20 and

21 b. Incurred in acquiring or producing the tangible product generating
22 the Kentucky gross receipts.

23 2. For manufacturing, producing, reselling, retailing, or wholesaling
24 activities, cost of goods sold shall only include costs directly incurred in
25 acquiring or producing the tangible product. In determining cost of
26 goods sold:

27 a. Labor costs shall be limited to direct labor costs as defined in

- 1 paragraph (f) of this subsection;
- 2 b. Bulk delivery costs as defined in paragraph (g) of this subsection
- 3 may be included; and
- 4 c. Costs allowable under Section 263A of the Internal Revenue Code
- 5 may be included only to the extent the costs are incurred in
- 6 acquiring or producing the tangible product generating the
- 7 Kentucky gross receipts. Notwithstanding the foregoing, indirect
- 8 labor costs allowable under Section 263A shall not be included;
- 9 3. For any activity other than manufacturing, producing, reselling, retailing,
- 10 or wholesaling, no costs shall be included in cost of goods sold.

11 As used in this paragraph, "guidelines issued by the Internal Revenue Service"

12 includes regulations, private letter rulings, or any other guidance issued by the

13 Internal Revenue Service that may be relied upon by taxpayers under reliance

14 standards established by the Internal Revenue Service;

- 15 (e) 1. "Kentucky gross profits" means Kentucky gross receipts reduced by
- 16 returns and allowances attributable to Kentucky gross receipts, less the
- 17 cost of goods sold attributable to Kentucky gross receipts. If the amount
- 18 of returns and allowances attributable to Kentucky gross receipts and the
- 19 cost of goods sold attributable to Kentucky gross receipts is zero, then
- 20 "Kentucky gross profits" means Kentucky gross receipts; and
- 21 2. "Gross profits from all sources" means gross receipts from all sources
- 22 reduced by returns and allowances attributable to gross receipts from all
- 23 sources, less the cost of goods sold attributable to gross receipts from all
- 24 sources. If the amount of returns and allowances attributable to gross
- 25 receipts from all sources and the cost of goods sold attributable to gross
- 26 receipts from all sources is zero, then gross profits from all sources
- 27 means gross receipts from all sources;

- 1 (f) "Direct labor" means labor that is incorporated into the tangible product sold
2 or is an integral part of the manufacturing process;
- 3 (g) "Bulk delivery costs" means the cost of delivering the product to the consumer
4 if:
5 1. The tangible product is delivered in bulk and requires specialized
6 equipment that generally precludes commercial shipping; and
7 2. The tangible product is taxable under KRS 138.220;
- 8 (h) "Manufacturing" and "producing" means:
9 1. Manufacturing, producing, constructing, or assembling components to
10 produce a significantly different or enhanced end tangible product;
11 2. Mining or severing natural resources from the earth; or
12 3. Growing or raising agricultural or horticultural products or animals;
- 13 (i) "Real property" means land and anything growing on, attached to, or erected
14 on it, excluding anything that may be severed without injury to the land;
- 15 (j) "Reselling," "retailing," and "wholesaling" mean the sale of a tangible
16 product;
- 17 (k) "Tangible personal property" means property, other than real property, that has
18 physical form and characteristics; and
- 19 (l) "Tangible product" means real property and tangible personal property;
- 20 (2) (a) For taxable years beginning on or after January 1, 2007, an annual limited
21 liability entity tax shall be paid by every corporation and every limited liability
22 pass-through entity doing business in Kentucky on all Kentucky gross receipts
23 or Kentucky gross profits except as provided in this subsection. A small
24 business exclusion from this tax shall be provided based on the reduction
25 contained in this subsection. The tax shall be the greater of the amount
26 computed under paragraph (b) of this subsection or one hundred seventy-five
27 dollars (\$175), regardless of the application of any tax credits provided under

1 this chapter or any other provisions of the Kentucky Revised Statutes for
2 which the business entity may qualify.

3 (b) The limited liability entity tax shall be the lesser of subparagraph 1. or 2. of
4 this paragraph:

5 1. a. If the corporation's or limited liability pass-through entity's gross
6 receipts from all sources are three million dollars (\$3,000,000) or
7 less, the limited liability entity tax shall be one hundred seventy-
8 five dollars (\$175);

9 b. If the corporation's or limited liability pass-through entity's gross
10 receipts from all sources are greater than three million dollars
11 (\$3,000,000) but less than six million dollars (\$6,000,000), the
12 limited liability entity tax shall be nine and one-half cents (\$0.095)
13 per one hundred dollars (\$100) of the corporation's or limited
14 liability pass-through entity's Kentucky gross receipts reduced by
15 an amount equal to two thousand eight hundred fifty dollars
16 (\$2,850) multiplied by a fraction, the numerator of which is six
17 million dollars (\$6,000,000) less the amount of the corporation's or
18 limited liability pass-through entity's Kentucky gross receipts for
19 the taxable year, and the denominator of which is three million
20 dollars (\$3,000,000), but in no case shall the result be less than one
21 hundred seventy-five dollars (\$175);

22 c. If the corporation's or limited liability pass-through entity's gross
23 receipts from all sources are equal to or greater than six million
24 dollars (\$6,000,000), the limited liability entity tax shall be nine
25 and one-half cents (\$0.095) per one hundred dollars (\$100) of the
26 corporation's or limited liability pass-through entity's Kentucky
27 gross receipts.

1 (c) A credit shall be allowed against the tax imposed under paragraph (a) of this
2 subsection for the current year to a corporation or limited liability pass-
3 through entity that owns an interest in a limited liability pass-through entity.
4 The credit shall be the proportionate share of tax calculated under this
5 subsection by the lower-level pass-through entity, as determined after the
6 amount of tax calculated by the pass-through entity has been reduced by the
7 minimum tax of one hundred seventy-five dollars (\$175). The credit shall
8 apply across multiple layers of a multi-layered pass-through entity structure.
9 The credit at each layer shall include the credit from each lower layer, after
10 reduction for the minimum tax of one hundred seventy-five dollars (\$175) at
11 each layer.

12 (d) The department may promulgate administrative regulations to establish a
13 method for calculating the cost of goods sold attributable to Kentucky.

14 (3) A nonrefundable credit based on the tax calculated under subsection (2) of this
15 section shall be allowed against the tax imposed by KRS 141.020 or 141.040. The
16 credit amount shall be determined as follows:

17 (a) The credit allowed a corporation subject to the tax imposed by KRS 141.040
18 shall be equal to the amount of tax calculated under subsection (2) of this
19 section for the current year after subtraction of any credits identified in KRS
20 141.0205, reduced by the minimum tax of one hundred seventy-five dollars
21 (\$175), plus any credit determined in paragraph (b) of this subsection for tax
22 paid by wholly or partially owned limited liability pass-through entities. The
23 amount of credit allowed to a corporation based on the amount of tax paid
24 under subsection (2) of this section for the current year shall be applied to the
25 income tax due from the corporation's activities in this state. Any remaining
26 credit from the corporation shall be disallowed.

27 (b) The credit allowed members, shareholders, or partners of a limited liability

1 pass-through entity shall be the members', shareholders', or partners'
2 proportionate share of the tax calculated under subsection (2) of this section
3 for the current year after subtraction of any credits identified in KRS
4 141.0205, as determined after the amount of tax paid has been reduced by the
5 minimum tax of one hundred seventy-five dollars (\$175). The credit allowed
6 to members, shareholders, or partners of a limited liability pass-through entity
7 shall be applied to income tax assessed on income from the limited liability
8 pass-through entity. Any remaining credit from the limited liability pass-
9 through entity shall be disallowed.

10 (4) Each taxpayer subject to the tax imposed in this section shall file a return, on forms
11 prepared by the department, on or before the fifteenth day of the fourth month
12 following the close of the taxpayer's taxable year. Any tax remaining due after
13 making the payments required in KRS 141.044 shall be paid by the original due
14 date of the return.

15 (5) The department shall prescribe forms and promulgate administrative regulations as
16 needed to administer the provisions of this section.

17 (6) The tax imposed by subsection (2) of this section shall not apply to:

18 (a) For taxable years beginning prior to January 1, 2021:

- 19 1. Financial institutions, as defined in KRS 136.500, except banker's banks
20 organized under KRS 287.135 or 286.3-135;
- 21 2. Savings and loan associations organized under the laws of this state and
22 under the laws of the United States and making loans to members only;
- 23 3. Banks for cooperatives;
- 24 4. Production credit associations;
- 25 5. Insurance companies, including farmers' or other mutual hail, cyclone,
26 windstorm, or fire insurance companies, insurers, and reciprocal
27 underwriters;

- 1 6. Corporations or other entities exempt under Section 501 of the Internal
2 Revenue Code;
- 3 7. Religious, educational, charitable, or like corporations not organized or
4 conducted for pecuniary profit;
- 5 8. Corporations whose only owned or leased property located in this state
6 is located at the premises of a printer with which it has contracted for
7 printing, provided that:
 - 8 a. The property consists of the final printed product, or copy from
9 which the printed product is produced; and
 - 10 b. The corporation has no individuals receiving compensation in this
11 state as provided in KRS 141.901;
- 12 9. Public service corporations subject to tax under KRS 136.120;
- 13 10. Open-end registered investment companies organized under the laws of
14 this state and registered under the Investment Company Act of 1940;
- 15 11. Any property or facility which has been certified as a fluidized bed
16 energy production facility as defined in KRS 211.390;
- 17 12. An alcohol production facility as defined in KRS 247.910;
- 18 13. Real estate investment trusts as defined in Section 856 of the Internal
19 Revenue Code;
- 20 14. Regulated investment companies as defined in Section 851 of the
21 Internal Revenue Code;
- 22 15. Real estate mortgage investment conduits as defined in Section 860D of
23 the Internal Revenue Code;
- 24 16. Personal service corporations as defined in Section 269A(b)(1) of the
25 Internal Revenue Code;
- 26 17. Cooperatives described in Sections 521 and 1381 of the Internal
27 Revenue Code, including farmers' agricultural and other cooperatives

1 organized or recognized under KRS Chapter 272, advertising
2 cooperatives, purchasing cooperatives, homeowners associations
3 including those described in Section 528 of the Internal Revenue Code,
4 political organizations as defined in Section 527 of the Internal Revenue
5 Code, and rural electric and rural telephone cooperatives; or

6 18. Publicly traded partnerships as defined by Section 7704(b) of the
7 Internal Revenue Code that are treated as partnerships for federal tax
8 purposes under Section 7704(c) of the Internal Revenue Code, or their
9 publicly traded partnership affiliates. "Publicly traded partnership
10 affiliates" shall include any limited liability company or limited
11 partnership for which at least eighty percent (80%) of the limited
12 liability company member interests or limited partner interests are
13 owned directly or indirectly by the publicly traded partnership; and

14 (b) For taxable years beginning on or after January 1, 2021:

15 1. Insurance companies, including farmers' or other mutual hail, cyclone,
16 windstorm, or fire insurance companies, insurers, and reciprocal
17 underwriters;

18 2. Corporations or other entities exempt under Section 501 of the Internal
19 Revenue Code;

20 3. Religious, educational, charitable, or like corporations not organized or
21 conducted for pecuniary profit;

22 4. Corporations whose only owned or leased property located in this state
23 is located at the premises of a printer with which it has contracted for
24 printing, provided that:

25 a. The property consists of the final printed product, or copy from
26 which the printed product is produced; and

27 b. The corporation has no individuals receiving compensation in this

- 1 state as provided in KRS 141.901;
- 2 5. Public service corporations subject to tax under KRS 136.120;
- 3 6. Open-end registered investment companies organized under the laws of
- 4 this state and registered under the Investment Company Act of 1940;
- 5 7. Any property or facility which has been certified as a fluidized bed
- 6 energy production facility as defined in KRS 211.390;
- 7 ~~8. An alcohol production facility as defined in KRS 247.910;~~
- 8 ~~9.~~ Real estate investment trusts as defined in Section 856 of the Internal
- 9 Revenue Code;
- 10 ~~9.~~^{10.} Regulated investment companies as defined in Section 851 of the
- 11 Internal Revenue Code;
- 12 ~~10.~~^{10.} Real estate mortgage investment conduits as defined in Section
- 13 860D of the Internal Revenue Code;
- 14 ~~11.~~^{11.} Personal service corporations as defined in Section 269A(b)(1) of
- 15 the Internal Revenue Code;
- 16 ~~12.~~^{12.} Cooperatives described in Sections 521 and 1381 of the Internal
- 17 Revenue Code, including farmers' agricultural and other cooperatives
- 18 organized or recognized under KRS Chapter 272, advertising
- 19 cooperatives, purchasing cooperatives, homeowners associations
- 20 including those described in Section 528 of the Internal Revenue Code,
- 21 political organizations as defined in Section 527 of the Internal Revenue
- 22 Code, and rural electric and rural telephone cooperatives; or
- 23 ~~13.~~^{13.} Publicly traded partnerships as defined by Section 7704(b) of the
- 24 Internal Revenue Code that are treated as partnerships for federal tax
- 25 purposes under Section 7704(c) of the Internal Revenue Code, or their
- 26 publicly traded partnership affiliates. "Publicly traded partnership
- 27 affiliates" shall include any limited liability company or limited

1 partnership for which at least eighty percent (80%) of the limited
2 liability company member interests or limited partner interests are
3 owned directly or indirectly by the publicly traded partnership.

4 (7) (a) As used in this subsection, "qualified exempt organization" means an entity
5 listed in subsection (6)(a) and (b) of this section and shall not include any
6 entity whose exempt status has been disallowed by the Internal Revenue
7 Service.

8 (b) Notwithstanding any other provisions of this section, any limited liability
9 pass-through entity that is owned in whole or in part by a qualified exempt
10 organization shall, in calculating its Kentucky gross receipts or Kentucky
11 gross profits, exclude the proportionate share of its Kentucky gross receipts or
12 Kentucky gross profits attributable to the ownership interest of the qualified
13 exempt organization.

14 (c) Any limited liability pass-through entity that reduces Kentucky gross receipts
15 or Kentucky gross profits in accordance with paragraph (b) of this subsection
16 shall disregard the ownership interest of the qualified exempt organization in
17 determining the amount of credit available under subsection (3) of this
18 section.

19 (d) The Department of Revenue may promulgate an administrative regulation to
20 further define "qualified exempt organization" to include an entity for which
21 exemption is constitutionally or legally required, or to exclude any entity
22 created primarily for tax avoidance purposes with no legitimate business
23 purpose.

24 (8) The credit permitted by subsection (3) of this section shall flow through multiple
25 layers of limited liability pass-through entities and shall be claimed by the taxpayer
26 who ultimately pays the tax on the income of the limited liability pass-through
27 entity.

1 ➔Section 18. KRS 141.041 is amended to read as follows:

- 2 (1) *For taxable years beginning before January 1, 2021,* there shall be allowed a
3 credit against the tax imposed on any corporation subject to taxation under KRS
4 141.040 and 141.0401, and which, on or after January 1, 1984, installs, modifies,
5 and utilizes facilities located in Kentucky for generating steam or hot water for
6 space-heating or materials processing or for providing direct heat for industrial
7 processes in the following ways:
- 8 (a) Replacement of an existing heat-generating facility not capable of using coal
9 as a fuel with one in which coal can be used;
 - 10 (b) Erection of a heat-generating facility additional to any existing heat-generating
11 facility or facilities and capable of using coal as a fuel;
 - 12 (c) Refurbishment for coal utilization of heat-generating facilities which were at
13 one time capable of using coal but which had been altered to allow use of
14 other fuels;
 - 15 (d) Alteration of an existing heat-generating facility not capable of utilizing coal
16 in such ways as to allow the use of coal;
 - 17 (e) Substitution of coal for other fuels in any heat-generating facility which on
18 January 1, 1984, was in existence and capable of utilizing coal and other fuels.
19 Substitution means the increased heat input in BTU from coal matched by
20 equal decreases of heat input in equivalent measures to BTU from other fuels,
21 based upon relative fuel usage in the calendar year preceding the year in which
22 the substitution occurred.
- 23 (2) The amount of the allowable credit shall be equal to four and one-half percent
24 (4.5%) of the purchase price of the coal subject to taxation under KRS Chapter 143
25 consumed or substituted in each eligible heating facility as described in subsection
26 (1) of this section, minus any transporting cost included in the purchase price.
- 27 (3) The credit shall be allowed for ten (10) years consecutive from the date of the initial

1 installation, modification, or utilization of any heat-generating facility installed or
2 modified on and after January 1, 1984, **but before January 1, 2021**, as defined in
3 subsection (1)(a), (b), (c), and (d) of this section or ten (10) years consecutive from
4 the filing of a fuel-switching credit claim in subsection (1)(e) of this section.

5 (4) The credit allowable under this section shall be applied against both the taxpayer's
6 income tax liability and the taxpayer's tax liability under the limited liability entity
7 tax imposed by KRS 141.0401, with the ordering of the credits as provided in KRS
8 141.0205, and no part of the credit shall be applicable to the tax imposed by KRS
9 141.040 or 141.0401 for any other taxable year.

10 (5) A corporation claiming the credit under this section must submit proof of the
11 installation, modification, utilization or substitution as required by regulations
12 issued by the Department of Revenue prior to the claiming of such credit.

13 ➔Section 19. KRS 141.062 is amended to read as follows:

14 (1) **For taxable years beginning before January 1, 2021**, the amount of premiums paid
15 for health insurance shall be treated as an income tax credit for state income tax
16 purposes, and as a credit against the limited liability entity tax imposed by KRS
17 141.0401, with the ordering of the credits as provided in KRS 141.0205, as follows:

- 18 (a) Twenty percent (20%) of the first year premium;
19 (b) Fifteen percent (15%) of the second year premium;
20 (c) Ten percent (10%) of the third year premium; and
21 (d) Five percent (5%) of the fourth year premium.

22 (2) No employer or employee shall be eligible for the income tax credits enumerated in
23 this section unless:

- 24 (a) Premiums are paid into the trust prior to July 1, 1992;
25 (b) Fifty (50) or fewer employees are employed;
26 (c) No health insurance benefits have been provided by the employer during the
27 three (3) years preceding the date premiums are initially paid to the trust;

1 (d) Employers maintain participation in the trust for all full-time and part-time
2 employees for a period of four (4) continuous years; and

3 (e) Employers pay at least fifty percent (50%) of the premium.

4 ➔Section 20. KRS 141.065 is amended to read as follows:

5 (1) For the purposes of this section, "code" or "Internal Revenue Code" means the
6 Internal Revenue Code in effect as of December 31, 1981.

7 (2) **For taxable years beginning before January 1, 2021,** there shall be allowed as a
8 credit for any taxpayer against the tax imposed by KRS 141.020 or 141.040 and
9 141.0401 for any taxable year, with the ordering of the credits as provided in KRS
10 141.0205, an amount equal to one hundred dollars (\$100) for each person hired by
11 the taxpayer, if that person has been classified as unemployed by the Office of
12 Unemployment Insurance of the Department of Workforce Investment in the
13 Education and Workforce Development Cabinet and has been so classified for at
14 least sixty (60) days prior to his employment by the taxpayer, and if further that
15 person has remained in the employ of the taxpayer for at least one hundred eighty
16 (180) consecutive days during the taxable year in which the taxpayer claims the
17 credit.

18 (3) No credit shall be allowed to any taxpayer for any person hired under any of the
19 following circumstances:

20 (a) A person for whom the taxpayer receives federally funded payments for on-
21 the-job training;

22 (b) For any person who bears any of the relationships to the taxpayer described in
23 paragraphs (1) through (8) of Section 152(a) of the Internal Revenue Code, or,
24 if the taxpayer is a corporation, to an individual who owns, directly or
25 indirectly, more than fifty percent (50%) in value of the outstanding stock of
26 the corporation as determined with the application of Section 267(c) of the
27 code;

- 1 (c) If the taxpayer is an estate or trust, to any person who is a grantor, beneficiary,
2 or fiduciary of the estate or trust, or is an individual who bears any of the
3 relationships described in paragraphs (1) through (8) of Section 152(a) of the
4 code to a grantor, beneficiary, or fiduciary of the estate or trust; or
- 5 (d) To any person who is a dependent of the taxpayer as described in code Section
6 152(a)(9), or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or
7 fiduciary of the estate or trust.
- 8 (4) For purposes of this section, all employees of all corporations which are members
9 of the same controlled group of corporations shall be treated as employed by a
10 single employer. In no instance shall the credit, if any, allowable by subsection (2)
11 of this section for any employee qualified thereunder be claimed more than once for
12 any taxable year by such a controlled group of corporations. For purposes of this
13 subsection, the term "controlled group of corporations" has the meaning given to
14 that term by code Section 1563(a), except that "more than fifty percent (50%)" shall
15 be substituted for "at least eighty percent (80%)" each place it appears in code
16 Section 1563(a)(1), and the determination shall be made without regard to
17 subsections (a)(4) and (e)(3)(c) of code Section 1563.
- 18 (5) For purposes of this section, all employees of trades or businesses (whether or not
19 incorporated) which are under common control shall be treated as employed by a
20 single employer, and in no instance shall the credit, if any, allowable by subsection
21 (2) of this section for any employee qualified thereunder be claimed more than once
22 for any taxable year.
- 23 (6) No credit shall be allowed under subsection (2) of this section to any organization
24 which is exempt from income tax by this chapter.
- 25 (7) In the case of a pass-through entity, the amount of the credit determined under this
26 section for any taxable year shall be applied at the entity level against the limited
27 liability entity tax imposed by KRS 141.0401 and shall also be apportioned pro rata

1 among the members, partners, or shareholders of the limited liability entity on the
2 last day of the taxable year, and any person to whom an amount is so apportioned
3 shall be allowed, subject to code Section 53, a credit under subsection (2) of this
4 section for that amount.

5 (8) In the case of an estate or trust, the amount of the credit determined under this
6 section for any taxable year shall be apportioned between the estate or trust and the
7 beneficiaries on the basis of income of the estate or trust allocable to each, and any
8 beneficiary to whom any amount has been apportioned under this subsection shall
9 be allowed, subject to code Section 53, a credit under subsection (2) of this section
10 for that amount.

11 (9) In no event shall the credit allowed, pursuant to this section, for any taxable year
12 exceed the tax liability of the taxpayer for the taxable year.

13 ➔Section 21. KRS 141.383 is amended to read as follows:

14 (1) As used in this section:

15 (a) "Above-the-line production crew" means the same as defined in KRS
16 148.542;

17 (b) "Approved company" means the same as defined in KRS 148.542;

18 (c) "Below-the-line production crew" means the same as defined in KRS 148.542;

19 (d) "Cabinet" means the same as defined in KRS 148.542;

20 (e) "Office" means the same as defined in KRS 148.542;

21 (f) "Qualifying expenditure" means the same as defined in KRS 148.542;

22 (g) "Qualifying payroll expenditure" means the same as defined in KRS 148.542;

23 (h) "Secretary" means the same as defined in KRS 148.542; and

24 (i) "Tax incentive agreement" means the same as defined in KRS 148.542.

25 (2) (a) There is hereby created a tax credit against the tax imposed under KRS
26 141.020 or 141.040 and 141.0401, with the ordering of credits as provided in
27 KRS 141.0205.

- 1 (b) The incentive available under paragraph (a) of this section is:
- 2 1. A refundable credit for applications approved prior to April 27, 2018;
- 3 and
- 4 2. A nonrefundable and nontransferable credit for applications approved on
- 5 or after April 27, 2018.
- 6 (c) 1. Beginning on April 27, 2018, the total tax incentive approved under
- 7 KRS 148.544 shall be limited to one hundred million dollars
- 8 (\$100,000,000) for calendar year 2018 and each calendar year **through**
- 9 **the 2020 calendar year**~~[thereafter].~~
- 10 2. **Beginning on January 1, 2021, the total tax incentive approved under**
- 11 **KRS 148.544 shall be limited to fifty million dollars (\$50,000,000) for**
- 12 **calendar 2021 and each calendar year thereafter**~~[On April 27, 2018, if~~
- 13 ~~applications have been approved during the 2018 calendar year which~~
- 14 ~~exceed the amount in subparagraph 1. of this paragraph, the Kentucky~~
- 15 ~~Film Office shall immediately cease in approving any further~~
- 16 ~~applications for tax incentives].~~
- 17 (3) An approved company may receive a refundable tax credit on and after July 1,
- 18 2010, but only for applications approved prior to April 27, 2018, if:
- 19 (a) The cabinet has received notification from the office that the approved
- 20 company has satisfied all requirements of KRS 148.542 to 148.546; and
- 21 (b) The approved company has provided a detailed cost report and sufficient
- 22 documentation to the office, which has been forwarded by the office to the
- 23 cabinet, that:
- 24 1. The purchases of qualifying expenditures were made after the execution
- 25 of the tax incentive agreement; and
- 26 2. The approved company has withheld income tax as required by KRS
- 27 141.310 on all qualified payroll expenditures.

1 (4) Interest shall not be allowed or paid on any refundable credits provided under this
2 section.

3 (5) The cabinet shall promulgate administrative regulations in accordance with KRS
4 Chapter 13A to administer this section.

5 (6) On or before September 1, 2010, and on or before each September 1 thereafter, for
6 the immediately preceding fiscal year, the cabinet shall report to the office the
7 names of the approved companies and the amounts of refundable income tax credit
8 claimed.

9 ➔Section 22. KRS 141.408 is amended to read as follows:

10 (1) There shall be allowed a nonrefundable and nontransferable credit against the tax
11 imposed by KRS 141.020 or 141.040 and 141.0401, with the ordering of the credits
12 as provided in KRS 141.0205, for any taxpayer that, on or after January 1, 2018,
13 timely pays an ad valorem tax to the Commonwealth or any political subdivision
14 thereof for property described in KRS 132.020(1)(d)(~~e~~) or 132.099.

15 (2) The credit allowed under subsection (1) of this section shall be in an amount equal
16 to:

17 (a) Twenty-five percent (25%) of the ad valorem taxes timely paid for taxable
18 years beginning on or after January 1, 2018, and before January 1, 2019;

19 (b) Fifty percent (50%) of the ad valorem taxes timely paid for taxable years
20 beginning on or after January 1, 2019, and before January 1, 2020;

21 (c) Seventy-five percent (75%) of the ad valorem taxes timely paid for taxable
22 years beginning on or after January 1, 2020, and before January 1, 2021; and

23 (d) One hundred percent (100%) of the ad valorem taxes timely paid, for taxable
24 years beginning on or after January 1, 2021.

25 (3) If the taxpayer is a pass-through entity, the taxpayer may apply the credit against the
26 limited liability entity tax imposed by KRS 141.0401, and shall pass the credit
27 through to its members, partners, or shareholders in the same proportion as the

1 distributive share of income or loss is passed through.

2 (4) No later than October 1, 2019, and annually thereafter, the department shall report
3 to the Interim Joint Committee on Appropriations and Revenue:

4 (a) The name of each taxpayer taking the credit permitted by subsection (1) of
5 this section;

6 (b) The location of the property upon which the credit was allowed; and

7 (c) The amount of credit taken by that taxpayer.

8 ➔Section 23. KRS 141.385 is amended to read as follows:

9 (1) As used in this section:

10 (a) "Class II railroad" means a railroad company classified as a Class II carrier by
11 the federal Surface Transportation Board;

12 (b) "Class III railroad" means a railroad company classified as a Class III carrier
13 by the federal Surface Transportation Board;

14 (c) "Qualified expenditures" means expenditures, whether or not otherwise
15 chargeable to a capital account, that are made to maintain or improve railroads
16 located in Kentucky, including roadbeds, bridges, and related structures, that
17 are owned or leased as of January 1, 2008, by a Class II or Class III railroad;
18 and

19 (d) "Eligible taxpayer" means:

20 1. The owner of any Class II railroad or Class III railroad located in
21 Kentucky; or

22 2. Any person who transports property using the rail facilities of a Class II
23 railroad or Class III railroad located in Kentucky or furnishes railroad-
24 related property or services to a Class II railroad or Class III railroad
25 located in Kentucky, but only with respect to miles of railroad track
26 assigned to the person by a Class II railroad or Class III railroad for
27 purposes of subsection (3) of this section.

- 1 (2) ~~{For taxable years beginning after December 31, 2009, }~~An eligible taxpayer shall
2 be entitled to a nonrefundable credit against the taxes imposed by KRS 141.020 or
3 141.040, and 141.0401 with the ordering of credits as directed in KRS 141.0205, in
4 an amount equal to:
- 5 **(a)** Fifty percent (50%) of the qualified expenditures paid or incurred by the
6 taxpayer during the taxable year **for taxable years beginning on or after**
7 **January 1, 2010, but before January 1, 2021; and**
- 8 **(b)** **Twenty-five percent (25%) of the qualified expenditures paid or incurred by**
9 **the taxpayer during the taxable year for taxable years beginning on or after**
10 **January 1, 2021.**
- 11 (3) The credit allowed under subsection (2) of this section shall not exceed the product
12 of:
- 13 (a) Three thousand five hundred dollars (\$3,500) multiplied by:
- 14 (b) The sum of:
- 15 1. The number of miles of railroad track in Kentucky owned or leased by
16 the eligible taxpayer as of the close of the taxable year; and
- 17 2. The number of miles of railroad track in Kentucky assigned for purposes
18 of this section to the eligible taxpayer by a Class II railroad or Class III
19 railroad which owns or leases the railroad track as of the close of the
20 taxable year.
- 21 (4) A mile of railroad track may be taken into account by a qualified taxpayer other
22 than the owner only if the mile of railroad track is assigned to the person by the
23 owner for purposes of this section. Any mile that is so assigned shall not be taken
24 into account by the owner for purposes of this section.
- 25 (5) With respect to any assignment of a mile of railroad track under subsection (4) of
26 this section:
- 27 (a) The assignment may be made only once per taxable year of the Class II

1 railroad or Class III railroad and shall be treated as made as of the close of the
2 taxable year;

3 (b) The mile shall not be taken into account under this section by the railroad for
4 such taxable year; and

5 (c) The assignment shall be taken into account for the taxable year of the
6 assignee, which includes the date that the assignment is treated as effective.

7 (6) If a credit is taken as provided for in subsection (2) of this section, the basis of the
8 track shall be reduced by the amount of credit taken.

9 ➔Section 24. KRS 141.412 is amended to read as follows:

10 (1) **For taxable years beginning before January 1, 2021,** a qualified farming operation
11 shall be entitled to a nonrefundable credit against the Kentucky income tax liability
12 established pursuant to the provisions of this chapter on any income of the qualified
13 farming operation generated by or arising out of the qualified farming operation's
14 participation in a networking project, and against the limited liability entity tax
15 imposed by KRS 141.0401 on any Kentucky gross profits or Kentucky gross
16 receipts of the qualified farming operation generated by or arising out of the
17 qualified farming operation's participation in a networking project. The credits shall
18 be applied as provided in KRS 141.0205. The annual credit shall be available for
19 the first five (5) years that the farming operation is involved in the networking
20 project. The annual credit shall be equal to the approved costs incurred by the
21 qualified farming operation during the tax year and shall not exceed the income,
22 Kentucky gross profits or Kentucky gross receipts, as the case may be, of the
23 qualified farming operation generated by or arising out of the qualified farming
24 operation's participation in a networking project.

25 (2) Any credit not used in the tax year in which it first becomes available may be
26 carried forward to the next succeeding five (5) tax years until the credit has been
27 fully used. The aggregate credit used in any tax year shall not exceed the income,

1 Kentucky gross profits or Kentucky gross receipts, as the case may be, of the
2 qualified farming operation generated by or arising out of the qualified farming
3 operation's participation in a networking project in that tax year.

4 ➔Section 25. KRS 141.418 is amended to read as follows:

5 (1) As used in this section:

6 (a) "Hazardous substances" shall have the meaning provided in KRS 224.1-400;

7 (b) "Pollutant or contaminant" shall have the meaning provided in KRS 224.1-
8 400;

9 (c) "Petroleum" and "petroleum products" shall have the meaning provided in
10 KRS 224.60-115;

11 (d) "Release" shall have the meaning as provided in either or both KRS 224.1-400
12 and 224.60-115;

13 (e) "Qualifying voluntary environmental remediation property" means real
14 property subject to the provisions of KRS 224.1-400, 224.1-405, or 224.60-
15 135 where the Energy and Environment Cabinet has made a determination
16 that:

17 1. All releases of hazardous substances, pollutants, contaminants,
18 petroleum, or petroleum products on the property occurred prior to the
19 property owner's acquisition of the property;

20 2. The property owner made all appropriate inquiry into previous
21 ownership and uses of the property in accordance with generally
22 accepted practices;

23 3. The property owner or a responsible party has provided all legally
24 required notices with respect to hazardous substances, pollutants,
25 contaminants, petroleum, or petroleum products found at the property;

26 4. The property owner is in compliance with all land use restrictions and
27 does not impede the effectiveness or integrity of any institutional

- 1 control;
- 2 5. The property owner complied with any information request or
- 3 administrative subpoena under KRS Chapter 224; and
- 4 6. The property owner is not affiliated with any person who is potentially
- 5 liable for the release of hazardous substances, pollutants, contaminants,
- 6 petroleum, or petroleum products on the property pursuant to KRS
- 7 224.1-400, 224.1-405, or 224.60-135, through:
 - 8 a. Direct or indirect familial relationship;
 - 9 b. Any contractual, corporate, or financial relationship, excluding
 - 10 relationships created by instruments conveying or financing title or
 - 11 by contracts for sale of goods or services; or
 - 12 c. Reorganization of a business entity that was potentially liable;
- 13 (f) "Expenditures" means payment for work to characterize the extent of
- 14 contamination and to remediate the contamination at a qualifying voluntary
- 15 environmental remediation property; and
- 16 (g) "Taxpayer" means an individual subject to tax under KRS 141.020 or a
- 17 corporation subject to tax under KRS 141.040.
- 18 (2) (a) There shall be allowed a nonrefundable credit against the tax imposed under
- 19 KRS 141.020 or 141.040 for taxable years beginning after December 31,
- 20 2004, but before January 1, 2021, and against the tax imposed by KRS
- 21 141.0401 for taxable years beginning after December 31, 2006, but before
- 22 January 1, 2021, for taxpayer expenditures made at a qualifying voluntary
- 23 environmental remediation property in order to correct the effect of a release
- 24 of hazardous substances, pollutants, contaminants, petroleum, or petroleum
- 25 products on the property pursuant to KRS 224.1-400, 224.1-405, or 224.60-
- 26 135, consistent with a corrective action plan approved by the Energy and
- 27 Environment Cabinet pursuant to KRS 224.1-400, 224.1-405, or 224.60-135,

1 and provided the cleanup was not financed through a public grant program or
2 the petroleum storage tank environmental assurance fund.

3 (b) The credit allowed under paragraph (a) of this subsection shall be applied both
4 to the income tax imposed under KRS 141.020 or 141.040 and to the limited
5 liability entity tax imposed under KRS 141.0401, with the ordering of the
6 credits as provided in KRS 141.0205.

7 (3) The maximum total credit for each taxpayer shall not exceed one hundred fifty
8 thousand dollars (\$150,000). For purposes of this section, an affiliated group of
9 taxpayers required to file a consolidated return under KRS 141.200 shall be treated
10 as one (1) taxpayer.

11 (4) A taxpayer claiming a credit under this section shall submit receipts to the Energy
12 and Environment Cabinet in proof of the expenditures claimed. The Energy and
13 Environment Cabinet shall verify the receipts. After the receipts are verified, the
14 Finance and Administration Cabinet shall notify the taxpayer of eligibility for the
15 credit.

16 (5) The credit may be first claimed on the income tax return of the taxpayer filed in the
17 taxable year during which the credit was certified. The amount of the allowable
18 credit for any taxable year shall be twenty-five percent (25%) of the maximum
19 credit approved. The credit may be carried forward for ten (10) successive taxable
20 years.

21 (6) If the taxpayer is a pass-through entity, the taxpayer shall apply the credit against
22 the limited liability entity tax imposed by KRS 141.0401, and shall also pass the
23 credit through to its members, partners, or shareholders in the same proportion as
24 the distributive share of income or loss is passed through.

25 ➔Section 26. KRS 143A.020 is amended to read as follows:

26 (1) For the privilege of severing or processing natural resources in this state, a tax is
27 hereby levied at the rate of four and one-half percent (4.5%) on natural gas and four

1 and one-half percent (4.5%) on all other natural resources, such rates to apply to the
2 gross value of the natural resource severed or processed~~except that no tax shall be~~
3 ~~imposed on the processing of ball clay~~.

4 (2) The tax shall apply to all taxpayers severing and/or processing natural resources in
5 this state, and shall be in addition to all other taxes imposed by law.

6 ➔Section 27. KRS 148.544 is amended to read as follows:

7 (1) The purposes of KRS 141.383 and 148.542 to 148.546 are to:

8 (a) Encourage the film and entertainment industry to choose locations in the
9 Commonwealth for the filming and production of motion picture or
10 entertainment productions;

11 (b) Encourage the development of a film and entertainment industry in Kentucky;

12 (c) Encourage increased employment opportunities for the citizens of the
13 Commonwealth within the film and entertainment industry; and

14 (d) Encourage the development of a production and postproduction infrastructure
15 in the Commonwealth for film production and touring Broadway show
16 production facilities containing state-of-the-art technologies.

17 (2) The Kentucky Film Office is hereby established in the Tourism, Arts and Heritage
18 Cabinet to administer, together with the Finance and Administration Cabinet and
19 the Tourism Development Finance Authority, the tax incentive established by KRS
20 141.383 and 148.542 to 148.546.

21 (3) To qualify for the tax incentive provided in subsection (5) of this section, the
22 following requirements shall be met:

23 (a) For an approved company that is also a Kentucky-based company that:

24 1. Films or produces a feature-length film, television program, or industrial
25 film in whole or in part in the Commonwealth, the minimum combined
26 total of qualifying expenditures and qualifying payroll expenditures shall
27 be one hundred twenty-five thousand dollars (\$125,000);

- 1 2. Produces a national touring production of a Broadway show in whole or
2 in part in the Commonwealth, the minimum combined total of
3 qualifying expenditures and qualifying payroll expenditures shall be
4 twenty thousand dollars (\$20,000); or
- 5 3. Films or produces a documentary in whole or in part in the
6 Commonwealth, the minimum combined total of qualifying
7 expenditures and qualifying payroll expenditures shall be ten thousand
8 dollars (\$10,000); and
- 9 (b) For an approved company that is not a Kentucky-based company that:
- 10 1. Films or produces a feature-length film, television program, or industrial
11 film in whole or in part in the Commonwealth, the minimum combined
12 total of qualifying expenditures and qualifying payroll expenditures shall
13 be two hundred fifty thousand dollars (\$250,000); or
- 14 2. Films or produces a documentary in whole or in part in the
15 Commonwealth or that produces a national touring production of a
16 Broadway show, the minimum combined total of qualifying
17 expenditures and qualifying payroll expenditures shall be twenty
18 thousand dollars (\$20,000).
- 19 (4) (a) **1.** Beginning on April 27, 2018, the total tax incentive approved under
20 KRS 141.383 and 148.542 to 148.546 shall be limited to one hundred
21 million dollars (\$100,000,000) for calendar year 2018 and each calendar
22 year **through the calendar year 2020**~~[thereafter]~~.
- 23 **2. Beginning January 1, 2021, the total tax incentive approved under**
24 **Section 21 of this Act and KRS 148.542 to 148.546 shall be limited to**
25 **fifty million dollars (\$50,000,000) for the calendar year 2021 and each**
26 **calendar year thereafter.**
- 27 (b) On April 27, 2018, if applications have been approved during the 2018

1 calendar year which exceed the amount in paragraph (a) of this subsection, the
2 office shall immediately cease in approving any further applications for tax
3 incentives for that calendar year.

- 4 (5) (a) The incentive available under KRS 141.383 and 148.542 to 148.546 is:
- 5 1. A refundable credit for applications approved prior to April 27, 2018;
 - 6 and
 - 7 2. A nonrefundable and nontransferable credit for applications approved on
8 or after April 27, 2018;
- 9 against the Kentucky income tax imposed under KRS 141.020 or 141.040, and
10 the limited liability entity tax imposed under KRS 141.0401, as provided in
11 KRS 141.383.
- 12 (b) 1. For a motion picture or entertainment production filmed or produced in
13 its entirety in an enhanced incentive county, the amount of the incentive
14 shall be equal to thirty-five percent (35%) of the approved company's:
- 15 a. Qualifying expenditures;
 - 16 b. Qualifying payroll expenditures paid to resident and nonresident
17 below-the-line production crew; and
 - 18 c. Qualifying payroll expenditures paid to resident and nonresident
19 above-the-line production crew not to exceed one million dollars
20 (\$1,000,000) in payroll expenditures per employee.
- 21 2. a. To the extent the approved company films or produces a motion
22 picture or entertainment production in part in an enhanced
23 incentive county and in part a Kentucky county that is not an
24 enhanced incentive county, the approved company shall be eligible
25 to receive the incentives provided in this paragraph for those
26 expenditures incurred in the enhanced incentive county and all
27 other expenditures shall be subject to the incentives provided in

1 paragraph (c) of this subsection.

2 b. The approved company shall track the requisite expenditures by
3 county. If the approved company can demonstrate to the
4 satisfaction of the cabinet that it is not practical to use a separate
5 accounting method to determine the expenditures by county, the
6 approved company shall determine the correct expenditures by
7 county using an alternative method approved by the cabinet.

8 (c) For a motion picture or entertainment production filmed or produced in whole
9 or in part in any Kentucky county other than in an enhanced incentive county,
10 the amount of the incentive shall be equal to:

11 1. Thirty percent (30%) of the approved company's:

12 a. Qualifying expenditures;

13 b. Qualifying payroll expenditures paid to below-the-line production
14 crew that are not residents; and

15 c. Qualifying payroll expenditures paid to above-the-line production
16 crew that are not residents, not to exceed one million dollars
17 (\$1,000,000) in payroll expenditures per employee; and

18 2. Thirty-five percent (35%) of the approved company's:

19 a. Qualifying payroll expenditures paid to resident below-the-line
20 production crew; and

21 b. Qualifying payroll expenditures paid to resident above-the-line
22 production crew not to exceed one million dollars (\$1,000,000) in
23 payroll expenditures per employee.

24 (d) Prior to June 1, 2019, the office and the Department of Revenue shall work
25 jointly to provide the following information for each approved motion picture
26 or entertainment production project to the Interim Joint Committee on
27 Appropriations and Revenue by taxable year for all years that a credit under

1 KRS 141.383 is or has been claimed:

- 2 1. The name of the approved company and whether it is Kentucky-based or
3 not;
- 4 2. A brief description of the motion picture or entertainment production
5 project;
- 6 3. The amount of qualifying expenditures and the amount of qualifying
7 payroll expenditures included in the agreement;
- 8 4. The amount of qualifying expenditures and the amount of qualifying
9 payroll expenditures paid to below-the-line production crew and paid to
10 above-the-line production crew in an enhanced incentive county;
- 11 5. The amount of qualifying expenditures and the amount of qualifying
12 payroll expenditures paid to below-the-line production crew and paid to
13 above-the line production crew in a county other than an enhanced
14 incentive county; and
- 15 6. The total amount of the tax credit claimed on a return by tax type, any
16 amount denied, any amount applied against a tax liability, any amount
17 refunded, and any amount remaining that may be claimed on a return
18 filed in the future.

19 ➔Section 28. KRS 151B.402 is amended to read as follows:

- 20 (1) The General Assembly recognizes the critical condition of the educational level of
21 Kentucky's adult population and seeks to stimulate the attendance at, and successful
22 completion of, programs that provide a High School Equivalency Diploma.
23 Incentives shall be provided to full-time employees who complete a High School
24 Equivalency Diploma program within one (1) year and their employers.
- 25 (2) The Office of Adult Education within the Department of Workforce Investment in
26 the Education and Workforce Development Cabinet shall promulgate administrative
27 regulations to establish the operational procedures for this section. The

- 1 administrative regulations shall include but not be limited to the criteria for:
- 2 (a) A learning contract that includes the process to develop a learning contract
3 between the student and the adult education instructor with the employer's
4 agreement to participate and support the student;
- 5 (b) Attendance reports that validate that the student is enrolled and studying for
6 the High School Equivalency Diploma during the release time from work; and
- 7 (c) Final reports that qualify the student for the tuition discounts under subsection
8 (3)(a) of this section and that qualify the employer for tax credits under
9 subsection (4) of the section.
- 10 (3) (a) An individual who has been out of secondary school for at least three (3)
11 years, develops and successfully completes a learning contract that requires a
12 minimum of five (5) hours per week to study for the High School Equivalency
13 Diploma program, and successfully earns a High School Equivalency Diploma
14 shall earn a tuition discount of two hundred fifty dollars (\$250) per semester
15 for a maximum of four (4) semesters at one (1) of Kentucky's public
16 postsecondary institutions.
- 17 (b) The program shall work with the postsecondary institutions to establish
18 notification procedures for students who qualify for the tuition discount.
- 19 (4) An employer who assists an individual to complete his or her learning contract
20 under the provisions of this section shall receive a state tax credit against the
21 income tax imposed by KRS 141.020 or 141.040, and the limited liability entity tax
22 imposed by KRS 141.0401, with credit ordering as provided in KRS 141.0205 for a
23 portion of the released time given to the employee to study for the tests. The
24 application for the tax credit shall be supported with attendance documentation
25 provided by the Office of Adult Education and calculated by multiplying fifty
26 percent (50%) of the hours released for study by the student's hourly salary, and not
27 to exceed a credit of one thousand two hundred fifty dollars (\$1250).

1 **(5) The state tax credit shall be awarded to an employer as described in subsection**
 2 **(4) of this section for taxable years beginning before January 1, 2022. New**
 3 **applications shall not be accepted or considered after June 30, 2021.**

4 ➔SECTION 29. A NEW SECTION OF SUBCHAPTER 12 OF KRS CHAPTER
 5 154 TO BE NUMBERED AS KRS 154.12-2071 IS CREATED TO READ AS
 6 FOLLOWS:

7 **The Bluegrass State Skills Corporation shall not award a skills training investment**
 8 **credit to an approved company after June 30, 2021.**

9 ➔Section 30. KRS 141.063 is amended to read as follows:

10 (1) As used in this section, unless the context requires otherwise:

11 (a) "Approved company" has the same meaning as in KRS 154.12-204;

12 (b) "Corporation" has the same meaning as in KRS 154.12-204;

13 (c) "Occupational upgrade training" has the same meaning as in KRS 154.12-204;

14 (d) "Qualified company" has the same meaning as in KRS 154.12-204;

15 (e) "Skills training investment credit" has the same meaning as in KRS 154.12-
 16 204; and

17 (f) "Skills upgrade training" has the same meaning as in KRS 154.12-204.

18 (2) ~~For taxable years beginning on or after July 1, 2022,~~ The corporation shall not
 19 **award a~~accept applications for the~~ skills training investment **credit to an**
 20 **approved company after June 30, 2021, under~~credits allowed by~~ KRS 154.12-
 21 204 to 154.12-208.****

22 (3) The amount of skills training investment credit awarded by the corporation under
 23 KRS 154.12-204 to 154.12-208 shall be credited on the tax return of the approved
 24 company in the year the corporation's closeout of approved training costs were
 25 incurred. The skills training investment credits allowed shall only be used by the
 26 approved company that has been awarded the credits in accordance with KRS
 27 154.12-204 to 154.12-208. The skills training investment credits shall be applied to

1 the income tax imposed by KRS 141.020 or 141.040. The credit may also be
2 applied to the limited liability entity tax imposed by KRS 141.0401, with the order
3 of the credits as provided in KRS 141.0205. These credits shall be in addition to all
4 other tax credits granted under the laws of the Commonwealth.

5 (4) The skills training investment credit may be carried forward for three (3) successive
6 fiscal years by the approved company if the amount allowable as credits exceeds the
7 income tax liability of the approved company in the tax year during which the final
8 closeout of the approved training costs were incurred. Any excess credits shall not
9 be refundable or carried forward beyond the third fiscal year.

10 (5) A qualified company shall not be entitled to receive the grant-in-aid under KRS
11 154.12-207 or skills training investment credits if the qualified company requires
12 the employee to reimburse the employer or otherwise pay for any costs or expenses
13 incurred in connection with the occupational upgrade training or skills upgrade
14 training.

15 (6) To the extent that any expenditures of a qualified company constitute approved
16 costs and are the basis for the skills upgrade or occupational upgrade training under
17 KRS 154.12-207, these expenditures shall only be eligible as the basis for either
18 grants-in-aid or skills training investment credits.

19 (7) By October 1 of each year, the Department of Revenue shall certify to the
20 corporation the amount of any skills training investment credits taken pursuant to
21 KRS 154.12-207 on tax returns filed during the fiscal year ending June 30 of that
22 year.

23 (8) The Department of Revenue may promulgate administrative regulations in
24 accordance with KRS Chapter 13A to adopt forms and procedures for the reporting
25 of the credit authorized in KRS 154.12-204 to 154.12-208.

26 (9) (a) In order for the General Assembly to evaluate the fulfillment of the purposes
27 of this section, the department shall submit the following information, related

1 to each taxable year that a grant-in-aid under KRS 154.12-207 or skills
2 training investment credit is claimed on any income tax return filed:

- 3 1. The cumulative amount of tax credits by taxable year claimed by entity
4 type, including:
 - 5 a. Person;
 - 6 b. Corporation;
 - 7 c. Limited liability company;
 - 8 d. Partnership;
 - 9 e. Limited partnership;
 - 10 f. Sole proprietorship;
 - 11 g. Holding company;
 - 12 h. Joint stock company;
 - 13 i. Professional services corporation; or
 - 14 j. Any other legal entity through which business is conducted;
 - 15 2. The number of returns filed claiming a tax credit for each taxable year
16 by entity type;
 - 17 3. In the case of a taxpayer other than a corporation, based on the mailing
18 address of the return, the total amount of credits claimed by county;
 - 19 4. In the case of a taxpayer other than a corporation, based on ranges of
20 adjusted gross income of no larger than five thousand dollars (\$5,000),
21 the total amount of credit claimed for each adjusted gross income range
22 by taxable year; and
 - 23 5. In the case of a corporation, based on ranges of net income no larger
24 than fifty thousand dollars (\$50,000), the total amount of credit claimed
25 for each net income range.
- 26 (b) The report required by paragraph (a) of this subsection shall be submitted to
27 the Interim Joint Committee on Appropriations and Revenue beginning no

1 later than November 1, 2018, and no later than each November 1 thereafter, as
 2 long as the skills training investment credit is claimed on any return processed
 3 by the department.

4 ➔SECTION 31. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER
 5 154 TO BE NUMBERED AS KRS 154.20-239 IS CREATED TO READ AS
 6 FOLLOWS:

7 **(1) No application for incentives related to the Kentucky Angel Investment Act under**
 8 **KRS 154.20-230 to 154.20-240 shall be accepted by the authority after June 30,**
 9 **2023.**

10 **(2) All applications received prior to July 1, 2023, shall continue to be governed by**
 11 **KRS 154.20-230 to 154.20-240.**

12 ➔Section 32. KRS 141.396 is amended to read as follows:

13 (1) As used in this section:

- 14 (a) "Authority" has the same meaning as in KRS 154.20-230;
 15 (b) "Qualified investor" has the same meaning as in KRS 154.20-230;
 16 (c) "Qualified small business" has the same meaning as in KRS 154.20-230; and
 17 (d) "Taxpayer" means an individual subject to the tax imposed by KRS 141.020,
 18 who has either:

- 19 1. Received a credit from the authority pursuant to KRS 154.20-236; or
 20 2. Received a credit through a valid transfer allowed under this section
 21 from a qualified investor that was originally awarded the credit.

22 (2) For taxable years beginning on or after January 1, 2015, there is hereby created the
 23 angel investor tax credit. The credit shall be nonrefundable, and shall apply against
 24 the tax imposed by KRS 141.020. The ordering of the credit shall be as provided in
 25 KRS 141.0205.

26 (3) A qualified investor may seek a credit by applying to the authority pursuant to KRS
 27 154.20-236.

- 1 (4) The maximum amount of credit that may be claimed by a taxpayer in any taxable
2 year shall not exceed fifty percent (50%) of the total amount of credit awarded or
3 transferred to the taxpayer.
- 4 (5) Any amount of credit that a taxpayer is unable to utilize during a taxable year may
5 be carried forward for use in a succeeding taxable year for a period not to exceed
6 fifteen (15) years. Any amount of credit not used within fifteen (15) years shall be
7 lost. No amount of credit may be carried back by any taxpayer.
- 8 (6) The credit shall not apply to any liability a taxpayer may have for interest, penalties,
9 past due taxes, or any other additions to the taxpayer's tax liability. The holder of
10 the credit shall assume any and all liabilities and responsibilities of the credit.
- 11 (7) A credit may be transferred by a qualified investor to any individual taxpayer. A
12 qualified investor making a transfer shall give written notice to the department and
13 shall provide any other information required by the department, in the manner
14 prescribed by the department. Any transferred credit shall be subject to the original
15 timeframes and requirements established by this section and KRS 154.20-230 to
16 154.20-240 as if held by the qualified investor.
- 17 (8) To receive the credit, a taxpayer shall claim the credit on his or her return in the
18 manner prescribed by the department.
- 19 (9) The department shall recapture any portion, or the full amount, of a credit upon
20 notification from the authority that a recapture is required pursuant to KRS 154.20-
21 240.
- 22 (10) In order for the General Assembly to evaluate the fulfillment of the purposes stated
23 in KRS 154.20-232, the department and the Cabinet for Economic Development
24 shall work jointly to submit the following information to the Interim Joint
25 Committee on Appropriations and Revenue on or before May 1, 2019, related to
26 each taxable year that an angel investor credit is claimed on a return:
- 27 (a) The number of qualified small businesses certified by the authority;

- 1 (b) The demographics of each qualified small business, including:
- 2 1. The net worth of the qualified small business;
- 3 2. The qualified activity the qualified small business is actively and
- 4 principally engaged in within the Commonwealth;
- 5 3. The number of employees of the qualified small business;
- 6 4. The location of the assets, operations, and employees of the qualified
- 7 small business; and
- 8 5. The aggregate amount of qualified investments received by the qualified
- 9 small business;
- 10 (c) A list detailing each qualified investor certified by the authority, the amount of
- 11 investment made by each qualified investor, the date each qualified
- 12 investment is made by the qualified investor, and the amount of tax credit
- 13 awarded each investor;
- 14 (d) By taxable year, the amount of tax credit claimed by each investor and the
- 15 amount of credit available to be claimed in future taxable years;
- 16 (e) The number of qualified small businesses that are active, inactive, or closed
- 17 that have received qualified investments;
- 18 (f) The number of qualified small businesses that have established a location in
- 19 the Commonwealth and the number that have expanded operations, the
- 20 number and location of each new job created, a description of each
- 21 development of new products and technologies in the Commonwealth, and the
- 22 field of operation for that growth, including knowledge-based, high-tech, or
- 23 research and development; and
- 24 (g) The total amount of tax credit awarded for each fiscal year.
- 25 (11) If either the department or the Cabinet for Economic Development does not
- 26 currently have the data to fulfill the reporting requirement of subsection (10) of this
- 27 section, the department and the cabinet shall work jointly to obtain the data in an

1 expedient manner to provide the report on or before the May 1, 2019, report date.

2 **(12) No application for incentives related to the Kentucky Angel Investment Act under**
 3 **KRS 154.20-230 to 154.20-240 shall be accepted by the Kentucky Economic**
 4 **Development Authority after June 30, 2023.**

5 ➔SECTION 33. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER
 6 154 TO BE NUMBERED AS KRS 154.20-2835 IS CREATED TO READ AS
 7 FOLLOWS:

8 **(1) No application for incentives related to the Kentucky Investment Fund Act under**
 9 **KRS 154.20-250 to 154.20-284 shall be accepted by the authority after June 30,**
 10 **2023.**

11 **(2) All applications received prior to July 1, 2023, shall continue to be governed by**
 12 **KRS 154.20-250 to 154.20-284.**

13 ➔SECTION 34. A NEW SECTION OF SUBCHAPTER 25 OF KRS CHAPTER
 14 154 IS CREATED TO READ AS FOLLOWS:

15 **(1) No applications for incentives under this subchapter for a jobs retention project**
 16 **shall be accepted by the authority after June 30, 2022.**

17 **(2) All outstanding projects with preliminary or final approval on June 30, 2022,**
 18 **shall continue to be governed by this subchapter and all other outstanding**
 19 **projects shall expire.**

20 ➔Section 35. KRS 141.402 is amended to read as follows:

21 (1) As used in this section, unless the context requires otherwise:

22 (a) "Approved company" shall have the same meaning as set forth in KRS
 23 154.25-010;

24 (b) "Jobs retention project" shall have the same meaning as set forth in KRS
 25 154.25-010;

26 (c) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS
 27 141.0401;

1 (d) "Kentucky gross profits" means Kentucky gross profits as defined in KRS
2 141.0401; and

3 (e) "Tax credit" means the tax credit allowed in KRS 154.25-030.

4 (2) An approved company shall determine the income tax credit as provided in this
5 section.

6 (3) An approved company which is an individual sole proprietorship subject to tax
7 under KRS 141.020 or a corporation or pass-through entity treated as a corporation
8 for federal income tax purposes subject to tax under KRS 141.040(1) shall:

9 (a) 1. Compute the tax due at the applicable tax rates as provided by KRS
10 141.020 or 141.040 on net income as defined by KRS 141.010 or
11 taxable net income as defined by KRS 141.010, including income from
12 the jobs retention project;

13 2. Compute the limited liability entity tax imposed under KRS 141.0401,
14 including Kentucky gross profits or Kentucky gross receipts from the
15 jobs retention project; and

16 3. Add the amounts computed under subparagraphs 1. and 2. of this
17 paragraph and, if applicable, subtract the credit permitted by KRS
18 141.0401(3) from that sum. The resulting amount shall be the net tax for
19 purposes of this paragraph.

20 (b) 1. Compute the tax due at the applicable tax rates as provided by KRS
21 141.020 or 141.040 on net income as defined by KRS 141.010 or
22 taxable net income as defined by KRS 141.010, excluding net income
23 attributable to the jobs retention project;

24 2. Using the same method used under subparagraph 2. of paragraph (a) of
25 this subsection, compute the limited liability entity tax imposed under
26 KRS 141.0401, excluding Kentucky gross profits or Kentucky gross
27 receipts from the jobs retention project; and

- 1 3. Add the amounts computed under subparagraphs 1. and 2. of this
2 paragraph and, if applicable, subtract the credit permitted by KRS
3 141.0401(3) from that sum. The resulting amount shall be the net tax for
4 purposes of this paragraph.
- 5 (c) The tax credit shall be the amount by which the net tax computed under
6 paragraph (a)3. of this subsection exceeds the tax computed under paragraph
7 (b)3. of this subsection; however, the credit shall not exceed the limits set
8 forth in KRS 154.25-030.
- 9 (4) (a) Notwithstanding any other provisions of this chapter, an approved company
10 which is a pass-through entity not subject to the tax imposed by KRS 141.040
11 or trust not subject to the tax imposed by KRS 141.040 shall be subject to
12 income tax on the net income attributable to a jobs retention project at the
13 rates provided in KRS 141.020(2).
- 14 (b) The amount of the tax credit shall be determined as provided in subsection (3)
15 of this section. Upon the annual election of the approved company, in lieu of
16 the tax credit, an amount shall be applied as an estimated tax payment equal to
17 the tax computed in this section. Any estimated tax payment made pursuant to
18 this paragraph shall be in satisfaction of the tax liability of the partners,
19 members, shareholders, or beneficiaries of the pass-through entity or trust, and
20 shall be paid on behalf of the partners, members, shareholders, or
21 beneficiaries.
- 22 (c) The tax credit or estimated payment shall not exceed the limits set forth in
23 KRS 154.25-030.
- 24 (d) If the tax computed in this section exceeds the tax credit, the difference shall
25 be paid by the pass-through entity or trust at the times provided by KRS
26 141.160 for filing the returns.
- 27 (e) Any estimated tax payment made by the pass-through entity or trust in

1 satisfaction of the tax liability of partners, members, shareholders, or
2 beneficiaries shall not be treated as taxable income subject to Kentucky
3 income tax by the partner, member, shareholder, or beneficiary.

4 (5) Notwithstanding any other provisions of this chapter, the net income subject to tax,
5 the tax credit, and the estimated tax payment determined under subsection (4) of
6 this section shall be excluded in determining each partner's, member's,
7 shareholder's, or beneficiary's distributive share of net income or credit of a pass-
8 through entity or trust.

9 (6) (a) Net income attributable to the project for the purposes of subsections (3), (4),
10 and (5) of this section shall be determined under the separate accounting
11 method reflecting only the gross income, deductions, expenses, gains, and
12 losses allowed under KRS Chapter 141 directly attributable to the facility and
13 overhead expenses apportioned to the facility; and

14 (b) Kentucky gross receipts or Kentucky gross profits attributable to the project
15 for purposes of subsection (3) of this section shall be determined under the
16 separate accounting method reflecting only the Kentucky gross receipts or
17 Kentucky gross profits directly attributable to the facility.

18 (7) If an approved company can show to the satisfaction of the Department of Revenue
19 that the nature of the operations and activities of the approved company are such
20 that it is not practical to use the separate accounting method to determine the net
21 income, Kentucky gross receipts, or Kentucky gross profits from the facility at
22 which the jobs retention project is located, the approved company shall determine
23 net income, Kentucky gross receipts, or Kentucky gross profits from the jobs
24 retention project using an alternative method approved by the Department of
25 Revenue.

26 (8) The Department of Revenue may promulgate administrative regulations and require
27 the filing of forms designed by the Department of Revenue to reflect the intent of

1 this section and KRS 154.25-010 to 154.25-050 and the allowable income tax credit
 2 which an approved company may retain under this section and KRS 154.25-010 to
 3 154.25-050.

4 **(9) No application for incentives for jobs retention project authorized under**
 5 **Subchapter 25 of KRS Chapter 154 shall be accepted by the Kentucky Economic**
 6 **Development Authority after June 30, 2022.**

7 ➔SECTION 36. A NEW SECTION OF SUBCHAPTER 26 OF KRS CHAPTER
 8 154 IS CREATED TO READ AS FOLLOWS:

9 **(1) No application for incentives under this subchapter for the Kentucky Industrial**
 10 **Revitalization Act shall be accepted by the authority after June 30, 2022.**

11 **(2) All outstanding projects with preliminary or final approval on June 30, 2022,**
 12 **shall continue to be governed by this subchapter and all other outstanding**
 13 **projects shall expire.**

14 ➔Section 37. KRS 141.403 is amended to read as follows:

15 (1) As used in this section, unless the context requires otherwise:

16 (a) "Approved company" shall have the same meaning as set forth in KRS
 17 154.26-010;

18 (b) "Economic revitalization project" shall have the same meaning as set forth in
 19 KRS 154.26-010;

20 (c) "Tax credit" means the tax credit allowed in KRS 154.26-090;

21 (d) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS
 22 141.0401; and

23 (e) "Kentucky gross profits" means Kentucky gross profits as defined in KRS
 24 141.0401.

25 (2) An approved company shall determine the income tax credit as provided in this
 26 section.

27 (3) An approved company which is an individual sole proprietorship subject to tax

1 under KRS 141.020 or a corporation or pass-through entity treated as a corporation
2 for federal income tax purposes subject to tax under KRS 141.040 shall:

- 3 (a) 1. Compute the tax due at the applicable tax rates as provided by KRS
4 141.020 or 141.040 on net income or taxable net income, including
5 income from the economic revitalization project;
- 6 2. Compute the limited liability entity tax imposed under KRS 141.0401,
7 including Kentucky gross profits or Kentucky gross receipts from the
8 economic revitalization project; and
- 9 3. Add the amounts computed under subparagraphs 1. and 2. of this
10 paragraph and, if applicable, subtract the credit permitted by KRS
11 141.0401(3) from that sum. The resulting amount shall be the net tax for
12 purposes of this paragraph.
- 13 (b) 1. Compute the tax due at the applicable tax rates as provided by KRS
14 141.020 or 141.040 on net income or taxable net income, excluding net
15 income attributable to the economic revitalization project;
- 16 2. Using the same method used under subparagraph 2. of paragraph (a) of
17 this subsection, compute the limited liability entity tax imposed under
18 KRS 141.0401, excluding Kentucky gross profits or Kentucky gross
19 receipts from the economic revitalization project; and
- 20 3. Add the amounts computed under subparagraphs 1. and 2. of this
21 paragraph and, if applicable, subtract the credit permitted by KRS
22 141.0401(3) from that sum. The resulting amount shall be the net tax for
23 purposes of this paragraph.
- 24 (c) The tax credit shall be the amount by which the net tax computed under
25 paragraph (a)3. of this subsection exceeds the tax computed under paragraph
26 (b)3. of this subsection; however, the credit shall not exceed the limits set
27 forth in KRS 154.26-090.

- 1 (4) (a) Notwithstanding any other provisions of this chapter, an approved company
2 which is a pass-through entity not subject to the tax imposed by KRS 141.040
3 or trust not subject to the tax imposed KRS 141.040 shall be subject to income
4 tax on the net income attributable to an economic revitalization project at the
5 rates provided in KRS 141.020.
- 6 (b) The amount of the tax credit shall be determined as provided in subsection (3)
7 of this section. Upon the annual election of the approved company, in lieu of
8 the tax credit, an amount shall be applied as an estimated tax payment equal to
9 the tax computed in this section. Any estimated tax payment made pursuant to
10 this paragraph shall be in satisfaction of the tax liability of the partners,
11 members, shareholders, or beneficiaries of the pass-through entity or trust, and
12 shall be paid on behalf of the partners, members, shareholders, or
13 beneficiaries.
- 14 (c) The tax credit or estimated payment shall not exceed the limits set forth in
15 KRS 154.26-090.
- 16 (d) If the tax computed in this section exceeds the tax credit, the difference shall
17 be paid by the pass-through entity or trust at the times provided by KRS
18 141.160 for filing the returns.
- 19 (e) Any estimated tax payment made by the pass-through entity or trust in
20 satisfaction of the tax liability of partners, members, shareholders, or
21 beneficiaries shall not be treated as taxable income subject to Kentucky
22 income tax by the partner, member, shareholder, or beneficiary.
- 23 (5) Notwithstanding any other provisions of this chapter, the net income subject to tax,
24 the tax credit, and the estimated tax payment determined under subsection (4) of
25 this section shall be excluded in determining each partner's, member's,
26 shareholder's, or beneficiary's distributive share of net income or credit of a pass-
27 through entity or trust.

- 1 (6) If the economic revitalization project is a totally separate facility:
- 2 (a) Net income attributable to the project for the purposes of subsections (3), (4),
3 and (5) of this section shall be determined under the separate accounting
4 method reflecting only the gross income, deductions, expenses, gains, and
5 losses allowed under KRS Chapter 141 directly attributable to the facility and
6 overhead expenses apportioned to the facility; and
- 7 (b) Kentucky gross receipts or Kentucky gross profits attributable to the project
8 for purposes of subsection (3) of this section shall be determined under the
9 separate accounting method reflecting only the Kentucky gross receipts or
10 Kentucky gross profits directly attributable to the facility.
- 11 (7) If the economic revitalization project is an expansion to a previously existing
12 facility:
- 13 (a) Net income attributable to the entire facility shall be determined under the
14 separate accounting method reflecting only the gross income, deductions,
15 expenses, gains, and losses allowed under KRS Chapter 141 directly
16 attributable to the facility and overhead expenses apportioned to the facility,
17 and the net income attributable to the economic revitalization project for the
18 purposes of subsections (3), (4), and (5) of this section shall be determined by
19 apportioning the separate accounting net income of the entire facility to the
20 economic revitalization project by a formula approved by the Department of
21 Revenue; and
- 22 (b) Kentucky gross receipts or Kentucky gross profits attributable to the entire
23 facility shall be determined under the separate accounting method reflecting
24 only the Kentucky gross receipts or Kentucky gross profits directly
25 attributable to the facility. Kentucky gross receipts or Kentucky gross profits
26 attributable to the economic revitalization project for purposes of subsection
27 (3) of this section shall be determined by apportioning the separate accounting

1 Kentucky gross receipts or Kentucky gross profits of the entire facility to the
 2 economic revitalization project pursuant to a formula approved by the
 3 Department of Revenue.

4 (8) If an approved company can show to the satisfaction of the Department of Revenue
 5 that the nature of the operations and activities of the approved company are such
 6 that it is not practical to use the separate accounting method to determine the net
 7 income, Kentucky gross receipts, or Kentucky gross profits from the facility at
 8 which the economic revitalization project is located, the approved company shall
 9 determine net income, Kentucky gross receipts, or Kentucky gross profits from the
 10 economic revitalization project using an alternative method approved by the
 11 Department of Revenue.

12 (9) The Department of Revenue may issue administrative regulations and require the
 13 filing of forms designed by the Department of Revenue to reflect the intent of KRS
 14 154.26-010 to 154.26-100 and the allowable income tax credit which an approved
 15 company may retain under KRS 154.26-010 to 154.26-100.

16 **(10) No application for incentives under Subchapter 26 of KRS Chapter 154 for the**
 17 **Kentucky Industrial Revitalization Act shall be accepted by the Kentucky**
 18 **Economic Development Authority after June 30, 2022.**

19 ➔SECTION 38. A NEW SECTION OF SUBCHAPTER 31 OF KRS CHAPTER
 20 154 IS CREATED TO READ AS FOLLOWS:

21 **(1) This subchapter shall be known as the "Kentucky Enterprise Initiative Act."**

22 **(2) No application for incentives under this subchapter shall be accepted by the**
 23 **authority after June 30, 2024.**

24 **(3) All outstanding projects with a final approval by June 30, 2024, shall continue to**
 25 **be governed by this subchapter and all other outstanding project shall expire.**

26 ➔SECTION 39. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 154
 27 IS CREATED TO READ AS FOLLOWS:

1 (1) No application for incentives under this subchapter for Kentucky business
2 investments shall be accepted by the authority after June 30, 2025.

3 (2) All outstanding projects with preliminary or final approval by June 30, 2025,
4 shall continue to be governed by this subchapter and all other outstanding
5 projects shall expire.

6 ➔Section 40. KRS 141.415 is amended to read as follows:

- 7 (1) As used in this section, unless the context requires otherwise:
- 8 (a) "Approved company" means the same as defined in KRS 154.32-010 or
9 154.34-010;
- 10 (b) "Economic development project" means the same as defined in KRS 154.32-
11 010;
- 12 (c) "Reinvestment project" means the same as defined in KRS 154.34-010;
- 13 (d) "Tax credit" means the tax credit allowed in KRS 154.34-120 or the credit
14 allowed in KRS 154.32-070, as the case may be;
- 15 (e) "Kentucky gross receipts" means the same as defined in KRS 141.0401; and
- 16 (f) "Kentucky gross profits" means the same as defined in KRS 141.0401.
- 17 (2) An approved company shall determine the income tax credit as provided in this
18 section.
- 19 (3) An approved company which is an individual sole proprietorship subject to tax
20 under KRS 141.020 or a corporation or pass-through entity treated as a corporation
21 for federal income tax purposes subject to tax under KRS 141.040 shall:
- 22 (a) 1. Compute the tax due at the applicable tax rates as provided by KRS
23 141.020 or 141.040 on net income or taxable net income, including
24 income from a reinvestment project or economic development project;
- 25 2. Compute the limited liability entity tax imposed under KRS 141.0401
26 including Kentucky gross profits or Kentucky gross receipts from the
27 reinvestment project or economic development project; and

- 1 3. Add the amounts computed under subparagraphs 1. and 2. of this
2 paragraph and, if applicable, subtract the credit permitted by KRS
3 141.0401(3) from that sum. The resulting amount shall be the net tax for
4 purposes of this paragraph.
- 5 (b) 1. Compute the tax due at the applicable tax rates as provided by KRS
6 141.020 or 141.040 on net income or taxable net income, excluding net
7 income attributable to a reinvestment project or economic development
8 project;
- 9 2. Using the same method used under paragraph (a)2. of this subsection,
10 compute the limited liability entity tax imposed under KRS 141.0401,
11 including Kentucky gross profits or Kentucky gross receipts from the
12 reinvestment project or economic development project; and
- 13 3. Add the amounts computed under subparagraphs 1. and 2. of this
14 paragraph and, if applicable, subtract the credit permitted by KRS
15 141.0401(3) from that sum. The resulting amount shall be the net tax for
16 purposes of this paragraph.
- 17 (c) The tax credit shall be the amount by which the tax computed under paragraph
18 (a)3. of this subsection exceeds the tax computed under paragraph (b)3. of this
19 subsection; however, the credit shall not exceed the limits set forth in KRS
20 154.32-070 or 154.34-120, as the case may be.
- 21 (4) (a) Notwithstanding any other provisions of this chapter, an approved company
22 which is a pass-through entity not subject to the tax imposed by KRS 141.040
23 or trust not subject to the tax imposed by KRS 141.040 shall be subject to
24 income tax on the net income attributable to a reinvestment project or
25 economic development project at the rates provided in KRS 141.020.
- 26 (b) The amount of the tax credit shall be determined as provided in subsection (3)
27 of this section. Upon the annual election of the approved company, in lieu of

1 the tax credit, an amount shall be applied as an estimated tax payment equal to
2 the tax computed in this section. Any estimated tax payment made pursuant to
3 this paragraph shall be in satisfaction of the tax liability of the partners,
4 members, shareholders, or beneficiaries of the pass-through entity or trust, and
5 shall be paid on behalf of the partners, members, shareholders, or
6 beneficiaries.

7 (c) The tax credit or estimated payment shall not exceed the limits set forth in
8 KRS 154.32-070 or 154.34-120, as the case may be.

9 (d) If the tax computed in this section exceeds the tax credit, the difference shall
10 be paid by the pass-through entity or trust at the times provided by KRS
11 141.160 for filing the returns.

12 (e) Any estimated tax payment made by the pass-through entity or trust in
13 satisfaction of the tax liability of partners, members, shareholders, or
14 beneficiaries shall not be treated as taxable income subject to Kentucky
15 income tax by the partner, member, shareholder, or beneficiary.

16 (5) Notwithstanding any other provisions of this chapter, the net income subject to tax,
17 the tax credit, and the estimated tax payment determined under subsection (4) of
18 this section shall be excluded in determining each partner's, member's,
19 shareholder's, or beneficiary's distributive share of net income or credit of a pass-
20 through entity or trust.

21 (6) If the reinvestment project or economic development project is a totally separate
22 facility:

23 (a) Net income attributable to the project for the purposes of subsections (3), (4),
24 and (5) of this section shall be determined under the separate accounting
25 method reflecting only the gross income, deductions, expenses, gains, and
26 losses allowed under KRS Chapter 141 directly attributable to the facility and
27 overhead expenses apportioned to the facility; and

- 1 (b) Kentucky gross receipts or Kentucky gross profits attributable to the project
2 for the purposes of subsection (3) of this section shall be determined under the
3 separate accounting method reflecting only the Kentucky gross receipts or
4 Kentucky gross profits directly attributable to the facility.
- 5 (7) If the reinvestment project or economic development project is an expansion to a
6 previously existing facility:
- 7 (a) Net income attributable to the entire facility shall be determined under the
8 separate accounting method reflecting only the gross income, deductions,
9 expenses, gains, and losses allowed under KRS Chapter 141 directly
10 attributable to the facility and overhead expenses apportioned to the facility,
11 and the net income attributable to the reinvestment project or economic
12 development project for the purposes of subsections (3), (4), and (5) of this
13 section shall be determined by apportioning the separate accounting net
14 income of the entire facility to the reinvestment project or economic
15 development project by a formula approved by the department; and
- 16 (b) Kentucky gross receipts or Kentucky gross profits attributable to the entire
17 facility shall be determined under the separate accounting method reflecting
18 only the Kentucky gross receipts or Kentucky gross profits directly
19 attributable to the facility, and Kentucky gross receipts or Kentucky gross
20 profits attributable to the reinvestment project or economic development
21 project for the purposes of subsection (3) of this section shall be determined
22 by apportioning the separate accounting Kentucky gross receipts or Kentucky
23 gross profits of the entire facility to the reinvestment project or economic
24 development project by a formula approved by the department.
- 25 (8) If an approved company can show to the satisfaction of the department that the
26 nature of the operations and activities of the approved company are such that it is
27 not practical to use the separate accounting method to determine the net income,

1 Kentucky gross receipts, or Kentucky gross profits from the facility at which the
 2 reinvestment project or economic development project is located, the approved
 3 company shall determine net income, Kentucky gross receipts, or Kentucky gross
 4 profits from the reinvestment project or economic development project using an
 5 alternative method approved by the department.

6 (9) The department may promulgate administrative regulations and require the filing of
 7 forms designed by the department to reflect the intent of KRS 154.34-010 to
 8 154.34-100 and Subchapter 32 of KRS Chapter 154, and the allowable income tax
 9 credit which an approved company may retain under KRS 154.34-010 to 154.34-
 10 100 or Subchapter 32 of KRS Chapter 154.

11 **(10) No application for incentives under Subchapter 34 of KRS Chapter 154 related to**
 12 **the Kentucky Reinvestment Act shall be accepted by the Kentucky Economic**
 13 **Development Authority after June 30, 2022.**

14 **(11) No application for incentives under Subchapter 32 of KRS Chapter 154 related to**
 15 **Kentucky business investments shall be accepted by the authority after June 30,**
 16 **2025.**

17 ➔SECTION 41. A NEW SECTION OF SUBCHAPTER 34 OF KRS CHAPTER
 18 154 IS CREATED TO READ AS FOLLOWS:

19 **(1) No application for incentives under this subchapter for the Kentucky**
 20 **Reinvestment Act shall be accepted by the authority after June 30, 2022.**

21 **(2) All outstanding projects with preliminary or final approval by June 30, 2022,**
 22 **shall continue to be governed by this subchapter and all other outstanding**
 23 **projects shall expire.**

24 ➔SECTION 42. A NEW SECTION OF SUBTITLE 60 OF KRS CHAPTER 154
 25 IS CREATED TO READ AS FOLLOWS:

26 **(1) No application for incentives under this subchapter for the small business tax**
 27 **credit or the selling farmer tax credit programs shall be accepted by the authority**

1 after June 30, 2024.

2 (2) All outstanding projects with final approval by June 30, 2024, shall continue to
3 be governed by this subchapter and all other outstanding projects shall expire.

4 ➔Section 43. KRS 141.384 is amended to read as follows:

5 (1) As used in this section, "small business" has the same meaning as in KRS 154.60-
6 010.

7 (2) (a) For taxable years beginning after December 31, 2010, a small business may be
8 eligible for a nonrefundable credit of up to one hundred percent (100%) of the
9 Kentucky income tax imposed under KRS 141.020 or 141.040, and the
10 limited liability entity tax imposed under KRS 141.0401.

11 (b) A small business that is subject to the tax imposed by KRS 141.020 or
12 141.040 and that has tax credits approved under Subchapter 60 of KRS
13 Chapter 154 shall apply the credits against the income tax imposed by KRS
14 141.020 or 141.040 and against the limited liability entity tax imposed by
15 KRS 141.0401, with the ordering of credits as provided in KRS 141.0205.

16 (c) A small business that is a pass-through entity not subject to the tax imposed
17 by KRS 141.040 and that has tax credits approved under Subchapter 60 of
18 KRS Chapter 154 shall apply the credits against the limited liability entity tax
19 imposed by KRS 141.0401, and shall also distribute the amount of the
20 approved tax credits to each partner, member, or shareholder based on the
21 partner's, member's, or shareholder's distributive share of income as
22 determined for the year during which the tax credits are approved, with the
23 ordering of credits as provided in KRS 141.0205.

24 (3) No application for incentives for the small business tax credit program
25 authorized under Subchapter 60 of KRS Chapter 154 shall be accepted by the
26 Kentucky Economic Development Authority after June 30, 2024.

27 ➔Section 44. KRS 141.3841 is amended to read as follows:

- 1 (1) The selling farmers tax credit permitted by KRS 154.60-040:
- 2 (a) Shall be nonrefundable and nontransferable; and
- 3 (b) May be claimed against the taxes imposed in KRS 141.020 or 141.040 and
- 4 141.0401, with the ordering of the credit as provided in KRS 141.0205.
- 5 (2) (a) The maximum amount of credit that may be claimed by a selling farmer in
- 6 each taxable year is limited to:
- 7 1. No more than the total amount of credit approved by the Kentucky
- 8 Economic Development Finance Authority;
- 9 2. Twenty-five thousand dollars (\$25,000) in any taxable year; and
- 10 3. No more than one hundred thousand dollars (\$100,000) total tax credit
- 11 over the lifetime of the selling farmer.
- 12 (b) The credit shall be first claimed on the tax return for the taxable year during
- 13 which the credit was approved.
- 14 (c) Any unused credit in a taxable year may be carried forward for up to five (5)
- 15 taxable years and, if not utilized within the five (5) year period, shall be lost.
- 16 (3) In order for the General Assembly to evaluate the fulfillment of the purpose stated
- 17 in KRS 154.60-040, the department shall provide the following information, on a
- 18 cumulative basis, for each selling farmer, for each taxable year:
- 19 (a) The location, by county, of the agricultural assets sold to a beginning farmer
- 20 and approved for a tax credit under KRS 154.60-040;
- 21 (b) The total amount of tax credit approved by the Kentucky Economic
- 22 Development Finance Authority for each selling farmer;
- 23 (c) The amount of tax credit claimed for each selling farmer in each taxable year;
- 24 and
- 25 (d) 1. In the case of all taxpayers other than corporations, based on ranges of
- 26 adjusted gross income of no larger than five thousand dollars (\$5,000)
- 27 for the taxable year, the total amount of tax credits claimed and the

1 number of returns claiming a tax credit for each adjusted gross income
2 range; and

3 2. In the case of all corporations, based on ranges of net income no larger
4 than fifty thousand dollars (\$50,000) for the taxable year, the total
5 amount of tax credit claimed and the number of returns claiming a tax
6 credit for each net income range.

7 (4) The report required by subsection (3) of this section shall be submitted to the
8 Interim Joint Committee on Appropriations and Revenue beginning no later than
9 November 1, 2021, and no later than each November 1 thereafter, as long as the
10 credit is claimed on any return processed by the department.

11 **(5) No application for incentives for the selling farmers tax credit program**
12 **authorized under Subchapter 60 of KRS Chapter 154 shall be accepted by the**
13 **Kentucky Economic Development Authority after June 30, 2024.**

14 ➔Section 45. KRS 148.851 is amended to read as follows:

15 As used in 148.851 to 148.860, unless the context clearly indicates otherwise:

16 (1) "Agreement" means the tourism development agreement entered into between the
17 authority and an approved company;

18 (2) "Approved company" means any eligible company that has received final approval
19 to receive incentives provided under KRS 148.853;

20 (3) "Approved costs" means the amount of eligible costs approved by the authority
21 upon completion of the project;

22 (4) "Authority" means the Kentucky Tourism Development Finance Authority as set
23 forth in KRS 148.850;

24 (5) "Cabinet" means the Tourism, Arts and Heritage Cabinet;

25 (6) "Crafts and products center" means a facility primarily devoted to the display,
26 promotion, and sale of Kentucky products, and at which a minimum of eighty
27 percent (80%) of the sales occurring at the facility are of Kentucky arts, crafts, or

1 agricultural products;

2 (7) "Eligible company" means any corporation, limited liability company, partnership,
3 limited partnership, sole proprietorship, business trust, or any other entity operating
4 or intending to operate a tourism development project;

5 (8) "Eligible costs" means:

6 (a) Obligations incurred for labor and amounts paid to vendors, contractors,
7 subcontractors, builders, suppliers, deliverymen, and materialmen in
8 connection with the acquisition, construction, equipping, and installation of a
9 tourism development project;

10 (b) The costs of acquiring real property or rights include the acquisition of real
11 property by a leasehold interest with a minimum term of ten (10) years, and
12 any costs incidental thereto;

13 (c) The cost of contract bonds and of insurance of all kinds that may be required
14 or necessary during the course of the acquisition, construction, equipping, and
15 installation of a tourism development project which is not paid by the vendor,
16 supplier, deliveryman, contractor, or otherwise provided;

17 (d) All costs of architectural and engineering services, including but not limited to
18 estimates, plans and specifications, preliminary investigations, and
19 supervision of construction and installation, as well as for the performance of
20 all the duties required by or consequent to the acquisition, construction,
21 equipping, and installation of a tourism development project;

22 (e) All costs required to be paid under the terms of any contract for the
23 acquisition, construction, equipping, and installation of a tourism
24 development project;

25 (f) All costs required for the installation of utilities, including but not limited to
26 water, sewer, sewer treatment, gas, electricity and communications, and
27 including off-site construction of the facilities paid for by the approved

- 1 company; and
- 2 (g) All other costs comparable with those described in this subsection, excluding
- 3 costs subject to refund under~~[KRS 154.20-202, 154.20-204, 154.20-206,~~
- 4 ~~154.20-208, and 154.20-210 or]~~ Subchapter 31 of KRS Chapter 154;
- 5 (9) "Enhanced incentive county" has the same meaning as in KRS 154.32-010;
- 6 (10) "Entertainment destination center project" means a facility that meets the
- 7 requirements of KRS 148.853(2)(b);
- 8 (11) "Final approval" means the action taken by the authority authorizing the eligible
- 9 company to receive incentives under KRS 139.536 and 148.851 to 148.860;
- 10 (12) "Full-service lodging facility" means a facility that provides overnight sleeping
- 11 accommodations, including private bathrooms and all of the following:
- 12 (a) On-site dining facilities;
- 13 (b) Room service;
- 14 (c) Catering; and
- 15 (d) Meeting space;
- 16 (13) "Incentives" means the Kentucky sales tax refund as prescribed in KRS 139.536;
- 17 (14) "Kentucky sales tax" means the sales tax imposed by KRS 139.200;
- 18 (15) "Lodging facility project" means a full-service lodging facility that:
- 19 (a) Is located on recreational property owned or leased by the Commonwealth or
- 20 the federal government;
- 21 (b) Involves the restoration or rehabilitation of a structure that:
- 22 1. Is listed individually on the National Register of Historic Places; or
- 23 2. Is located in the National Register Historic District; and
- 24 is certified by the Kentucky Heritage Council as contributing to the historic
- 25 significance of the district, and the rehabilitation or restoration of the structure
- 26 has been approved in advance by the Kentucky Heritage Council;
- 27 (c) Is an integral part of a major convention or sports facility;

1 (d) Is located:

- 2 1. Within a fifty (50) mile radius of a property listed on the National
3 Register of Historic Places with a current function of recreation and
4 culture; and
5 2. In any of the one hundred (100) least-populated counties in the
6 Commonwealth, in terms of population density, according to the most
7 recent census;

8 (e) Is located on property:

- 9 1. Owned by the Commonwealth, or leased by the Commonwealth from
10 the federal government;
11 2. Acquired for use in the state park system pursuant to KRS 148.028; and
12 3. Operated by the Kentucky Department of Parks pursuant to KRS
13 148.021 or the Kentucky Horse Park Commission pursuant to KRS
14 148.258 to 148.320;

15 (f) Is located on property:

- 16 1. Owned or leased by the federal government and under the control of the
17 Department of the Interior; or
18 2. Owned by the Commonwealth and in the custody of the State Fair Board
19 as provided in KRS 247.140;

20 (g) Is part of a tourism attraction project, entertainment destination center project,
21 or theme restaurant destination attraction project and the full-service lodging
22 facility represents less than fifty percent (50%) of the total eligible costs; or

23 (h) Has not less than five hundred (500) guest rooms:

24 (16) "Net positive fiscal impact" means the amount by which increased state tax
25 revenues will exceed the incentives given;

26 (17) "Preliminary approval" means the action taken by the authority conditionally
27 approving an eligible company for the incentives under KRS 139.536 and 148.851

1 to 148.860;

2 (18) "Recreational facility" means a structure or outdoor area that:

3 (a) Provides visitors recreational opportunities, including but not limited to
4 amusement parks, boating, hiking, horseback riding, hunting, fishing,
5 camping, wildlife viewing, live theater, rock climbing, and all-terrain vehicle
6 trails; and

7 (b) Serves as a likely destination where individuals who are not residents of the
8 Commonwealth would remain overnight in commercial lodging at or near the
9 recreational facility;

10 (19) "Theme restaurant destination attraction project" means a restaurant facility that
11 meets the requirements for incentives under KRS 148.853(2)(c);

12 (20) (a) "Tourism attraction project" means:

- 13 1. A cultural or historical site;
- 14 2. A recreational facility;
- 15 3. An entertainment facility;
- 16 4. An area of natural phenomenon or scenic beauty; or
- 17 5. A Kentucky crafts and products center;

18 (b) "Tourism attraction project" does not include facilities that are primarily
19 devoted to the retail sale of goods, other than a Kentucky crafts and products
20 center, or a tourism attraction where the sale of goods is a secondary and
21 subordinate component of the attraction; and

22 (21) "Tourism development project" means:

- 23 (a) A tourism attraction project;
- 24 (b) A theme restaurant destination attraction project;
- 25 (c) An entertainment destination center project; or
- 26 (d) A lodging facility project.

27 ➔Section 46. KRS 243.720 is amended to read as follows:

- 1 (1)~~[(a)]~~ There is levied upon the use, sale, or distribution by sale or gift of distilled
2 spirits a tax of one dollar and ninety-two cents (\$1.92) on each wine gallon of
3 distilled spirits, and a proportional rate per gallon on all distilled spirits used, sold,
4 or distributed in any container of more or less than one (1) gallon, but the rate of the
5 excise tax on spirits in retail containers of one-half (1/2) pint shall be twelve cents
6 (\$0.12)~~]; and~~
- 7 ~~(b) Notwithstanding the provisions of paragraph (a) of this subsection, distilled~~
8 ~~spirits placed in containers for sale at retail, where the distilled spirits~~
9 ~~represent six percent (6%) or less of the total volume of the contents of such~~
10 ~~containers, shall be taxed at the rate of twenty five cents (\$0.25) per gallon].~~
- 11 (2) There is levied upon the use, sale, or distribution by sale or gift of wine, a tax of
12 fifty cents (\$0.50) on each gallon of wine, and a proportional rate per gallon on the
13 wine used, sold, or distributed in any container of more or less than one (1) gallon,
14 but the tax shall not be less than four cents (\$0.04) on the sale or distribution of any
15 retail container of wine.
- 16 (3)~~[(a)]~~ There is levied upon the sale or distribution by sale or gift of malt beverages
17 an excise tax of two dollars and fifty cents (\$2.50) on each barrel of thirty-one (31)
18 gallons and a proportional rate per gallon on malt beverages sold or distributed in
19 any container of more or less than thirty-one (31) gallons~~];~~
- 20 ~~(b) Each brewer producing malt beverages in this state shall be entitled to a credit~~
21 ~~of fifty percent (50%) of the tax levied on each barrel of malt beverages sold~~
22 ~~in this state, up to three hundred thousand (300,000) barrels per annum].~~
- 23 (4) This section shall not apply to:
- 24 (a) Wine manufactured, sold, given away, or distributed and used solely for
25 sacramental purposes; or
- 26 (b) Distilled spirits and wine purchased by holders of special licenses provided
27 for in KRS 243.320 and purchased and used in the manner authorized by those

1 licenses.

2 ➔Section 47. KRS 243.157 is amended to read as follows:

- 3 (1) A microbrewery license shall authorize the licensee to perform the following
4 functions:
- 5 (a) Engage in the business of a brewer under the terms and conditions of KRS
6 243.150, provided that production of malt beverages at the microbrewery shall
7 not exceed fifty thousand (50,000) barrels in one (1) year;
 - 8 (b) Serve on the premises complimentary samples of malt beverages produced by
9 the microbrewery in amounts not to exceed sixteen (16) ounces per patron,
10 provided the microbrewery is located in wet territory or a precinct that has
11 authorized the sale of alcoholic beverages at microbreweries under KRS
12 242.1239;
 - 13 (c) Sell malt beverages produced on the premises of the microbrewery to licensed
14 distributors;
 - 15 (d) Sell malt beverages produced on the premises of the microbrewery for on- and
16 off-premises purposes in accordance with subsection (3)(b) and (c) of this
17 section, pursuant to the following:
 - 18 1. Without restriction on the amount of malt beverages sold by the drink
19 for on-premises consumption provided the microbrewery is located in
20 wet territory or a precinct that has authorized the sale of alcoholic
21 beverages at microbreweries under KRS 242.1239; and
 - 22 2. With a restriction on the amount of malt beverages sold for off-premises
23 consumption, in an aggregate amount not to exceed thirty-one (31)
24 gallons per person per day that shall not include more than three (3)
25 cases in case format; and
 - 26 (e) Sell:
 - 27 1. Unlimited amounts of malt beverages by the drink; and

1 2. Not more than one (1) case of packaged malt beverages;
2 produced on the premises of the microbrewery to consumers at fairs, festivals,
3 and other similar types of events located in wet territory, in accordance with
4 subsection (3)(b)2. and (c)2. of this section.

5 (2) A microbrewery license shall not be deemed to be incompatible with any other
6 license except for a distributor's license under the provisions of KRS 243.180.

7 (3) In accordance with the provisions of this section, a microbrewery license holder
8 may:

9 (a) Hold retail drink and package licenses both on and off the premises of the
10 microbrewery. The holder of a microbrewery license is exempt from the
11 provisions of KRS 244.570 and 244.590 as applied to any retail licenses held
12 by the microbrewery license holder, and from any other sections which would
13 restrict the co-ownership of the microbrewery license and any retail licenses
14 described in this section;

15 (b) Sell malt beverages produced on the premises of the microbrewery for on-
16 premises purposes without having to transfer physical possession of those
17 malt beverages to a licensed distributor provided:

18 1. The microbrewery possesses a retail drink license for those premises;
19 and

20 2. The microbrewery reports and pays all taxes required by subsection
21 (5)(a) and (b) of this section to the Department of Revenue at the time
22 and in the manner required by the Department of Revenue in accordance
23 with its powers under KRS 131.130(3); and

24 (c) Sell malt beverages produced on the premises of the microbrewery for off-
25 premises purposes without having to transfer physical possession of those
26 malt beverages to a licensed distributor provided that:

27 1. The microbrewery possesses a retail package license for those premises;

1 and

2 2. The microbrewery reports and pays all taxes required by subsection
3 (5)(a) and (b) of this section to the Department of Revenue at the time
4 and in the manner required by the Department of Revenue in accordance
5 with its powers under KRS 131.130(3).

6 (4) The provisions of subsection (3)(b) and (c) of this section shall apply only to malt
7 beverages that are produced by the microbrewery at its licensed premises and:

8 (a) Offered for sale by the microbrewery at that same premises under the
9 microbrewery's retail drink or package license; or

10 (b) Offered for sale by the microbrewery at a fair, festival, or other similar type of
11 event as authorized under subsection (1)(e) of this section.

12 All other malt beverages produced by the microbrewery which are offered for retail
13 sale shall be sold and physically transferred to a licensed distributor in compliance
14 with all other relevant provisions of KRS Chapters 241 to 244, and a licensed
15 microbrewery shall not otherwise affect sales of malt beverages directly to retail
16 customers except as provided in subsection (3)(b) and (c) of this section under KRS
17 243.027 to 243.029 if the microbrewery holds a direct shipper license.

18 (5) (a) A microbrewery selling malt beverages in accordance with subsection (3)(b)
19 and (c) of this section shall pay all wholesale sales taxes due under KRS
20 243.884. For the purposes of this subsection, "wholesale sales" means a sale
21 of malt beverages made by a microbrewery under subsection (3)(b) and (c) of
22 this section, as applicable.

23 (b) A microbrewery shall pay the excise tax on malt beverages in accordance with
24 KRS 243.720~~[(3)]~~ and 243.730~~[and shall be entitled to the credit set forth in~~
25 ~~KRS 243.720(3)(b)]~~.

26 (6) A microbrewery shall not be located in dry territory.

27 (7) An employee of a microbrewery may sample the products produced by that

1 microbrewery for purposes of education, quality control, and product development.

2 (8) This section does not exempt the holder of a microbrewery license from the
3 provisions of KRS Chapters 241 to 244, nor from any rules of the board as
4 established by administrative regulations, nor from regulation by the board, except
5 as expressly stated in this section. The provisions of this section shall not be
6 deemed inconsistent with the provisions of KRS 244.602.

7 (9) Nothing in this section shall be construed to vitiate the policy of this
8 Commonwealth, as set forth in KRS 244.167 and 244.602, supporting an orderly
9 three (3) tier system for the production and sale of malt beverages.

10 ➔Section 48. KRS 243.730 is amended to read as follows:

11 (1) (a) Wholesalers of distilled spirits and wine shall pay and report the taxes~~[tax]~~
12 levied by KRS 243.720~~[(1) and (2)]~~ on or before the twentieth day of the
13 calendar month next succeeding the month in which possession or title of the
14 distilled spirits and wine is transferred from the wholesaler to retailers or
15 consumers in this state, in accordance with rules and regulations of the
16 Department of Revenue designed reasonably to protect the revenues of the
17 Commonwealth.

18 (b) Distributors or retailers of malt beverages, who purchase malt beverages
19 directly from a brewer, shall pay and report the tax levied by KRS
20 243.720~~[(3)]~~ on or before the twentieth day of the calendar month next
21 succeeding the month in which the brewer sells, transfers, or passes title of the
22 malt beverage to the distributor or retailer, in accordance with
23 administrative~~[rules and]~~ regulations promulgated by~~[of]~~ the Department of
24 Revenue designed reasonably to protect the revenues of the Commonwealth.~~[~~
25 ~~The credit allowed brewers in this state, under the provisions of KRS~~
26 ~~243.720(3)(b), shall flow through to the distributor or retailer who purchases~~
27 ~~malt beverages directly from the brewer.]~~ If a brewer sells, transfers, or passes

1 title to malt beverages to any of its employees for home consumption or to any
2 charitable or fraternal organization pursuant to the provisions of KRS
3 243.150, the brewer shall be responsible for paying and reporting the tax
4 levied by KRS 243.720(3) in accordance with the provisions of subsection (c)
5 of this section.

6 (c) Every brewer selling, transferring, or passing title to malt beverages to any
7 person in this state other than a distributor or retailer, and every other person
8 selling, transferring, or passing title of distilled spirits, wine, or malt
9 beverages to distributors, retailers, or consumers shall report and pay the tax
10 levied by KRS 243.720(1), (2), or (3) on or before the twentieth day of the
11 calendar month next succeeding the month in which possession or title of
12 distilled spirits, wine, or malt beverages is transferred to a distributor, retailer,
13 or consumer in this state, in accordance with rules and regulations of the
14 Department of Revenue designed reasonably to protect the revenues of the
15 Commonwealth.

16 (d) Every distributor, retailer, or consumer possessing, using, selling, or
17 distributing distilled spirits, wine, or malt beverages in this state upon which
18 the tax levied by KRS 243.720(1), (2), or (3) and KRS 243.884 has not been
19 paid shall be jointly and severally liable for reporting and paying the tax due,
20 in accordance with rules and regulations of the Department of Revenue
21 designed reasonably to protect the revenues of the Commonwealth. Such
22 liability shall not be extinguished until the tax has been paid to the
23 Department of Revenue.

24 (e) Notwithstanding the provisions of paragraph (a) of this subsection, every
25 owner of a small farm winery shall pay and report the tax levied by KRS
26 243.720 (1) and (2) on a quarterly basis, in accordance with administrative
27 regulations of the Department of Revenue designed reasonably to protect the

1 revenues of the Commonwealth.

2 (2) Every wholesaler of distilled spirits or wine before using, selling, or distributing by
3 sale or gift distilled spirits and wine shall qualify with the Department of Revenue.

4 (3) Every brewer before selling or distributing by sale or gift malt beverages, or before
5 importing malt beverages into the state, shall qualify with the Department of
6 Revenue in such manner as the Department of Revenue may require.

7 ➔Section 49. KRS 243.884 is amended to read as follows:

8 (1) (a) For the privilege of making "wholesale sales" or "sales at wholesale" of beer,
9 wine, or distilled spirits, a tax is hereby imposed upon all wholesalers of wine
10 and distilled spirits, all distributors of beer, and all microbreweries selling
11 malt beverages under KRS 243.157.

12 (b) Prior to July 1, 2015, the tax shall be imposed at the rate of eleven percent
13 (11%) of the gross receipts of any such wholesaler or distributor derived from
14 "sales at wholesale" or "wholesale sales" made within the Commonwealth, ~~except as provided in subsection (3) of this section~~. For the purposes of this
15 section, the gross receipts of a microbrewery making "wholesale sales" shall
16 be calculated by determining the dollar value amount that the microbrewer
17 would have collected had it conveyed to a distributor the same volume sold to
18 a consumer as allowed under KRS 243.157 (3)(b) and (c).

19 (c) On and after July 1, 2015, the following rates shall apply:

20 1. For distilled spirits, eleven percent (11%) of wholesale sales or sales at
21 wholesale; and

22 2. For wine and beer:

23 a. Ten and three-quarters of one percent (10.75%) for wholesale sales
24 or sales at wholesale made on or after July 1, 2015, and before
25 June 1, 2016;

26 b. Ten and one-half of one percent (10.5%) for wholesale sales or
27

1 sales at wholesale made on or after June 1, 2016, and before June
2 1, 2017;

3 c. Ten and one-quarter of one percent (10.25%) for wholesale sales
4 or sales at wholesale made on or after June 1, 2017, and before
5 June 1, 2018; and

6 d. Ten percent (10%) for wholesale sales or sales at wholesale made
7 on or after June 1, 2018.

8 (2) Wholesalers of distilled spirits and wine, distributors of malt beverages, and
9 microbreweries shall pay and report the tax levied by this section on or before the
10 twentieth day of the calendar month next succeeding the month in which possession
11 or title of the distilled spirits, wine, or malt beverages is transferred from the
12 wholesaler or distributor to retailers, or by microbreweries to consumers in this
13 state, in accordance with rules and regulations of the Department of Revenue
14 designed reasonably to protect the revenues of the Commonwealth.

15 ~~[(3) Gross receipts from sales at wholesale or wholesale sales shall not include the
16 following sales:~~

17 ~~(a) Sales made between wholesalers or between distributors; and~~

18 ~~(b) Sales from the first fifty thousand (50,000) gallons of wine produced by a
19 small farm winery in a calendar year made by:~~

20 ~~1. The small farm winery; or~~

21 ~~2. A wholesaler of that wine produced by the small farm winery.]~~

22 ➔Section 50. KRS 243.882 is amended to read as follows:

23 For the purposes of KRS 243.884 to 243.890:

24 (1) "Distributor" means a person required to be or who is a licensee authorized to do
25 business pursuant to KRS 243.180;

26 (2) "Microbrewery" means a person required to be or who is a licensee authorized to do
27 business pursuant to KRS 243.157;

- 1 (3) "Wholesale sale" or "sale at wholesale" means:
- 2 (a) A sale made for the purpose of resale in the regular course of business of beer,
- 3 wine, or distilled spirits~~[-except as provided in KRS 243.884(3)];~~ or
- 4 (b) A sale of malt beverages made by a microbrewery as authorized by KRS
- 5 243.157; and
- 6 (4) "Wholesaler" means a person required to be or who is a licensee authorized to do
- 7 business pursuant to KRS 243.160 and 243.170.
- 8 ➔Section 51. KRS 139.481 is amended to read as follows:
- 9 (1) On and after January 1, 2022, every person claiming an exemption provided under
- 10 KRS 139.480(4) to (9), KRS 139.480(11), KRS 139.480(~~12~~)(~~13~~) to (~~14~~)(~~15~~),
- 11 and KRS 139.480(~~22~~)(~~23~~) to (~~29~~)(~~30~~) shall include on the appropriate
- 12 exemption certificate an agriculture exemption number issued by the department.
- 13 (2) A person is eligible to apply for an agriculture exemption number if the person is:
- 14 (a) Regularly engaged in the occupation of tilling and cultivating the soil for the
- 15 production of crops as a business;
- 16 (b) Regularly engaged in the occupation of raising and feeding livestock of a kind
- 17 the products of which ordinarily constitute food for human consumption;
- 18 (c) Raising and feeding poultry;
- 19 (d) Producing milk for sale; or
- 20 (e) Regularly engaged in raising ratite birds, llamas, alpacas, buffalos, cervids, or
- 21 aquatic organisms as an agricultural pursuit.
- 22 (3) (a) On and after January 1, 2022, persons that receive an agriculture exemption
- 23 number and choose to claim the exemptions outlined in subsection (1) of this
- 24 section shall, at least one (1) time, provide the seller or retailer from whom
- 25 they purchase exempt tangible personal property with one (1) of the
- 26 following:
- 27 1. A fully completed exemption certificate, as prescribed by the

1 department, which shall contain the agriculture exemption number
2 issued by the department; or

3 2. A fully completed Streamlined Sales Tax Certificate of Exemption
4 which shall include the agriculture exemption number.

5 (b) A purchaser that has met the requirements of paragraph (a) of this subsection
6 may issue the agriculture exemption number to the seller or retailer for
7 subsequent purchases as evidence of an exempt purchase for as long as the
8 agriculture exemption number is valid.

9 (c) Persons that meet the requirements of subsection (2) of this section but have
10 not yet received an agriculture exemption number from the department prior
11 to January 1, 2022, may issue a fully completed exemption certificate without
12 the agriculture exemption number prior to July 1, 2022.

13 (4) (a) On or before April 1, 2021, the department, by administrative regulation, shall
14 develop an application form for the agriculture exemption number and
15 procedures by which the application form may also be submitted either
16 electronically or by paper filing no later than January 1, 2022.

17 (b) The application shall include:
18 1. The person's name and mailing address;
19 2. The farm address, if different from the person's mailing address;
20 3. An affirmation that the person meets at least one (1) of the criteria
21 outlined in subsection (2) of this section;
22 4. The person's driver's license number; and
23 5. One (1) of the following forms of documentation:
24 a. IRS Schedule F, Profit or Loss from Farming;
25 b. IRS Form 4835, Farm Rental Income and Expenses;
26 c. The farm service agency number or numbers assigned by the
27 United States Department of Agriculture pertaining to the parcels

1 of land on which agriculture activity will take place; or

2 d. Any other type of information that may establish to the satisfaction
3 of the Commissioner that the applicant qualifies for the agriculture
4 exemption number.

5 (5) (a) The agriculture exemption number shall expire three (3) years from the date
6 that the number is issued by the department or when the person ceases to
7 engage in the agriculture activity for which the agriculture exemption number
8 was granted, whichever comes first.

9 (b) The person may apply for a renewal of the agriculture exemption number prior
10 to the expiration date if the person continues to meet the requirements of
11 subsection (2) of this section and provides documentation required by
12 subsection (4)(b)5. of this section. The department shall, by administrative
13 regulation, prescribe the electronic process for renewing an agriculture
14 exemption number.

15 (6) (a) On or before July 1, 2022, the department shall develop and provide an online
16 searchable database on the department's Web site that the seller or retailer may
17 use to confirm the agriculture exemption number if the purchaser cannot
18 produce documentation of the agriculture exemption number at the time of
19 sale.

20 (b) To search the database, the seller or retailer shall provide the name of the
21 person assigned the agriculture exemption number and one (1) of the
22 following:

- 23 1. The agriculture exemption number;
- 24 2. The agriculture exemption number expiration date;
- 25 3. The person's driver's license number;
- 26 4. The farm service agency parcel number; or
- 27 5. Any other unique identifier that may be accepted by the department.

1 (c) The seller or retailer shall be relieved of the liability for collecting and
2 remitting the sales and use tax if the seller or retailer meets the requirements
3 of KRS 139.260 and 139.270.

4 ➔Section 52. KRS 138.991 is amended to read as follows:

5 (1) Any person who shall change or alter the date, name, gallonage or other information
6 shown on any invoice used to support any claim for refund authorized in KRS~~[~~
7 ~~138.341,]~~ 138.344,~~[~~ ~~138.445,]~~ 138.358, or 138.446 shall forfeit the right to such
8 refund.

9 (2) Any person, firm or corporation who shall make any false statement in connection
10 with an application for the refund of any money, as provided in KRS~~[~~ ~~138.341,]~~
11 138.344,~~[~~ ~~138.445,]~~ 138.358, or 138.446 or who shall collect or cause to be repaid
12 to him or to any person any such taxes without being entitled to the same shall be
13 fined not less than twenty-five dollars (\$25) nor more than one thousand dollars
14 (\$1,000).

15 ➔Section 53. KRS 138.992 is amended to read as follows:

16 Any person who knowingly uses gasoline or special fuels, the tax on which is subject to
17 refund or credit, for any purpose other than as provided in KRS~~[~~ ~~138.341,]~~ 138.344,~~[~~
18 ~~138.445,]~~ 138.358, or 138.446, shall be fined not less than one hundred (100) nor more
19 than five hundred dollars (\$500), or imprisoned not exceeding one (1) year, or both so
20 fined and imprisoned.

21 ➔Section 54. KRS 139.500 is amended to read as follows:

22 (1) The storage, use, or other consumption in this state of property, the gross receipts
23 from the sale of which are required to be included in the measure of the tax levied
24 under KRS 139.200 is not subject to the use tax.

25 (2) The storage, use, or other consumption in this state of gasoline or special fuels on
26 which the tax under KRS Chapter 138 has been paid and which is not subject to
27 refund under KRS~~[~~ ~~138.341,]~~ 138.344,~~[~~ ~~138.445,]~~ 279.200, or 279.530 shall not be

1 subject to the use tax.

2 ➔Section 55. KRS 138.358 is amended to read as follows:

3 (1) Any special fuels dealer who delivers special fuels, on which the tax imposed by
4 KRS 138.220 has been paid, into a tank having no dispensing outlet and used
5 exclusively to heat a personal residence, shall be entitled to claim a credit against
6 the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer
7 obtains from the purchaser and retains in his files a signed and dated statement from
8 the purchaser certifying that the fuel will be used exclusively to heat the personal
9 residence to which it is delivered. No person so certifying shall use the special fuel
10 for any other purpose. The Department of Revenue may require dealers claiming the
11 credit authorized herein to submit information required by the department to
12 reasonably protect the revenues of the Commonwealth.

13 (2) Any special fuels dealer who sells gasoline or special fuels, on which the tax
14 imposed by KRS 138.220 has been paid, exclusively for the purpose of operating or
15 propelling stationary engines or tractors for agricultural purposes, shall be entitled
16 to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid
17 on the fuel if the dealer obtains from the purchaser and retains in his files a signed
18 and dated statement from the purchaser certifying that the fuel will be used
19 exclusively for the purpose of operating or propelling stationary engines or tractors
20 for agricultural purposes. No person so certifying shall use gasoline or the special
21 fuels for any other purpose. Sales made from a retail filling station do not qualify
22 for the credit. The Department of Revenue may require dealers claiming the credit
23 authorized herein to submit information required by the department to reasonably
24 protect the revenues of the Commonwealth.

25 (3) Any special fuels dealer who delivers special fuels, on which the tax imposed by
26 KRS 138.220 has been paid, into a nonhighway use storage tank of a resident
27 nonprofit religious, charitable, or educational organization or state or local

1 governmental agency which has qualified for exemption from Kentucky sales and
2 use tax pursuant to KRS 139.470(6) or 139.495 shall be entitled to claim a credit
3 against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the
4 dealer obtains from the purchaser and retains in his files a signed and dated
5 statement certifying the purchaser's sales and use tax purchase exemption
6 authorization issued pursuant to KRS Chapter 139. No organization or agency so
7 certifying shall use or allow the use of any nonhighway special fuel so acquired for
8 any purpose other than fueling unlicensed vehicles or equipment for nonhighway
9 purposes. The Department of Revenue may require dealers claiming the credit
10 authorized herein to submit information required by the department to reasonably
11 protect the revenues of the Commonwealth.

12 (4) Any special fuels dealer who sells special fuels, on which the tax imposed by KRS
13 138.220 has been paid, which shall be used exclusively for consumption in
14 unlicensed vehicles or equipment for nonhighway purposes, shall be entitled to
15 claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on
16 the fuel if the dealer obtains from the purchaser and retains in his files a signed and
17 dated statement from the purchaser certifying that the fuel will be used exclusively
18 for nonhighway purposes. No person making the certification shall use the special
19 fuels for any other purpose. Sales made from a retail filling station do not qualify
20 for the credit. The Department of Revenue may require dealers claiming the credit
21 authorized in this subsection to submit information required by the department to
22 reasonably protect the revenues of the Commonwealth. ~~This credit shall not apply
23 to special fuels taxes subject to a refund under KRS 138.445.~~

24 ➔Section 56. KRS 154.12-223 is amended to read as follows:

25 (1) There is created within the Cabinet for Economic Development the Department for
26 Business Development, which shall be headed by a commissioner appointed by the
27 Governor. The department shall work with each Kentucky county in:

- 1 (a) Providing customer service and project management with new and existing
- 2 industries;
- 3 (b) Overseeing programs and initiatives designed to support new investment, job
- 4 creation, and retention across the state;
- 5 (c) Providing sufficient technical resources to create and maintain a database to
- 6 facilitate sales transactions between Kentucky businesses; and
- 7 (d) Administering activities related to business site selection.

8 (2) The following programs shall be attached to the Department for Business
9 Development:

- 10 (a) The Kentucky port and river development program created by KRS 65.510 to
- 11 65.530~~, KRS 139.483,~~ and KRS 154.80-100 to 154.80-130; and
- 12 (b) The Waterway Marina Development Program established by KRS 154.80-
- 13 310.

14 ➔Section 57. KRS 154.80-100 is amended to read as follows:

15 The purpose of KRS 65.510 to 65.530~~, KRS 139.483,~~ this section, and KRS 154.80-110
16 to 154.80-130 is to create within the Cabinet for Economic Development to aid in the
17 promotion and development of river-related industry, agriculture, and commerce in
18 Kentucky; to aid in the promotion and development of local port authorities as authorized
19 by KRS 65.510 to 65.650; to aid in the promotion and development of industrial districts,
20 parks, and sites for accommodating industrial complexes that utilize the rivers and river-
21 related resources; to analyze, plan, and aid in systematically developing river-related
22 resources by the development of services and facilities; to promote the development of
23 industrial parks and terminal facilities for manufacturing and distribution industries for
24 attracting and serving private and public enterprises that are directly or indirectly river-
25 oriented; to promote the exportation of Kentucky made products in foreign commerce,
26 especially as related to the utilization of the navigable waterways; and to establish the
27 powers necessary or appropriate to carry out and effectuate the purposes of KRS 65.510

1 to 65.530,~~[KRS 139.483,]~~ this section, and KRS 154.80-110 to 154.80-130.

2 ➔Section 58. KRS 154.80-110 is amended to read as follows:

3 (1) The cabinet may make application to the proper federal authorities for the
4 establishment of a foreign trade zone wherever and whenever such a zone is
5 desirable. KRS 65.510 to 65.530,~~[KRS 139.483,]~~ KRS 154.80-100, and KRS
6 154.80-110 to 154.80-130 will constitute legislative authority and approval of such
7 applications, as required by federal law.

8 (2) Nothing contained in this section shall be construed to prohibit any corporation
9 organized under KRS Chapters 271B and 273 from being organized and chartered
10 for the purposes of establishing, operating, and maintaining a foreign trade zone
11 within this state pursuant to KRS 271B.18-060.

12 (3) As used in this section, "foreign trade zone" means such a zone authorized by 19
13 U.S.C. sec. 81.

14 ➔Section 59. KRS 154.80-120 is amended to read as follows:

15 The cabinet may enter into any and all contracts in its own name for planning,
16 engineering, promotion, and development, consistent with the purposes of KRS 65.510 to
17 65.530,~~[139.483,]~~ 154.80-100, and 154.80-110 to 154.80-130, and may enter into
18 contracts for these purposes with any local port authority authorized by KRS 65.510 to
19 65.650 or any other public or private organization.

20 ➔Section 60. KRS 154.80-130 is amended to read as follows:

21 The cabinet may disburse any and all funds appropriated by the Legislature for purposes
22 consistent with KRS 65.510 to 65.530,~~[139.483,]~~ 154.80-100, and 154.80-110 to 154.80-
23 130, any funds received from any state agency, and may apply for, receive, and disburse
24 funds from the federal government, or any other public or private organization or agency
25 for carrying out the purposes of KRS 65.510 to 65.530,~~[139.483,]~~ 154.80-100, and
26 154.80-110 to 154.80-130.

27 ➔Section 61. KRS 140.300 is amended to read as follows:

1 As used in KRS ~~140.300~~~~[140.310]~~ to 140.360, these words shall have the following
2 meaning:

3 (1) "Agricultural land" means that real estate which is defined in KRS 132.010(9).

4 (2) "Horticultural land" means that real estate which is defined in KRS 132.010(10).

5 (3) "Agricultural or horticultural value" means the value as defined in KRS
6 132.010(11).

7 (4) "Qualified real estate" means real property which:

8 (a) Is either horticultural or agricultural land;

9 (b) Has been used for agricultural or horticultural purposes for five (5) years prior
10 to the death of the owner of the real estate or a joint owner thereof; and

11 (c) Fair cash value exceeds fifty percent (50%) of the gross taxable estate of
12 decedent for Kentucky inheritance tax purposes.

13 (5) "Qualified person" means the spouse of a deceased owner of agricultural or
14 horticultural land; the children, adopted children, and stepchildren of that deceased
15 owner; the spouses and issue of that deceased owner's children, adopted children,
16 and stepchildren, and is a person who proposes to devote the real property to
17 agricultural or horticultural purposes for at least five (5) years after the death of the
18 decedent in whose estate the agricultural or horticultural land is subject to
19 assessment.

20 ➔Section 62. The following KRS sections are repealed:

21 138.341 Refund of tax on fuel used in aircraft -- Bond -- Assignment of right to receive
22 refund.

23 138.342 Application for refund -- Investigation and payment -- Effect of false and
24 fraudulent application.

25 138.445 Refund of tax paid on fuels used in operation of watercraft -- Filing of refund
26 claims.

27 139.483 Exemption of vessels and maritime supplies.

- 1 140.015 Exemption of benefits from federal government arising out of military service.
- 2 140.063 Exemption of annuities or other payments under employees' trusts -- Retirement
3 annuities -- Individual retirement bonds, accounts, and annuities.
- 4 140.310 Assessment of agricultural or horticultural land for inheritance tax purposes.
- 5 143.023 Limitation of tax on coal severance for coal used in burning solid waste.
- 6 143A.030 Exemptions.
- 7 143A.033 Credit for production from recovered inactive natural gas well.
- 8 143A.037 Limitation of tax on clay -- Credit for clay used in landfills.
- 9 154.20-200 Definitions for KRS 154.20-200 to 154.20-216.
- 10 154.20-202 Authority to promulgate administrative regulations -- Requirements for
11 approval of eligible companies and economic development projects.
- 12 154.20-203 Deadline for new applications -- Governing law for outstanding approved
13 projects.
- 14 154.20-204 Total tax refund incentive -- Application and approval of eligible company -
15 - Transfer of designation as approved company.
- 16 154.20-206 Authorization of sales and use tax refund for approved company --
17 Administrative regulations.
- 18 154.20-208 Time for application and approval of eligible company as approved
19 company.
- 20 154.20-210 Agreement between authority and approved company.
- 21 154.20-212 Company's filings under KRS 154.20-200 to 154.20-216 subject to Open
22 Records Act.
- 23 154.20-214 Authority to report annually to Legislative Research Commission and
24 Governor.
- 25 154.20-216 Short Title -- Kentucky Enterprise Initiative Act.
- 26 224.10-192 Emission standards for carburetion systems -- Functions transferred to
27 cabinet.

- 1 234.321 Collection of excise tax on liquefied petroleum gas -- Exemptions.
- 2 ➔Section 63. Sections 1 to 4 of this Act shall apply to property assessed on or
- 3 after January 1, 2022.