

1 AN ACT relating to a tax deduction for volunteer fire fighters.

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

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

4 As used in this chapter, for taxable years beginning on or after January 1, 2018:

5 (1) **"Active volunteer firefighter" means a firefighter who:**

6 **(a) Volunteers for a qualified fire department;**

7 **(b) Is active with a qualified fire department for the entire taxable year for**  
 8 **which the credit is claimed;**

9 **(c) Appears on the list of certified volunteer firefighters provided by the**  
 10 **Kentucky Fire Commission on or before January 15, 2023, and on or before**  
 11 **every January 15 thereafter as long as the exclusion permitted by Section 2**  
 12 **of this Act is allowed; and**

13 **(d) Completes one hundred fifty (150) hours of certification and twenty (20)**  
 14 **hours of continuing education annually thereafter;**

15 **(2)** "Adjusted gross income," in the case of taxpayers other than corporations, means  
 16 the amount calculated in KRS 141.019;

17 **(3)**~~(2)~~ "Captive real estate investment trust" means a real estate investment trust as  
 18 defined in Section 856 of the Internal Revenue Code that meets the following  
 19 requirements:

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

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

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

27 a. Twenty-five percent (25%), if the corporation does not occupy

1 property owned, constructively owned, or controlled by the real  
2 estate investment trust; or

3 b. Ten percent (10%), if the corporation occupies property owned,  
4 constructively owned, or controlled by the real estate investment  
5 trust.

6 The total ownership interest of a corporation shall be determined by  
7 aggregating all interests owned or constructively owned by a  
8 corporation; and

9 2. For the purposes of this paragraph:

10 a. "Corporation" means a corporation taxable under KRS 141.040,  
11 and includes an affiliated group as defined in KRS 141.200, that is  
12 required to file a consolidated return pursuant to KRS 141.200;  
13 and

14 b. "Owned or constructively owned" means owning shares or having  
15 an ownership interest in the real estate investment trust, or owning  
16 an interest in an entity that owns shares or has an ownership  
17 interest in the real estate investment trust. Constructive ownership  
18 shall be determined by looking across multiple layers of a  
19 multilayer pass-through structure; and

20 (c) The real estate investment trust is not owned by another real estate investment  
21 trust;

22 ~~(4)~~~~(3)~~ "Commissioner" means the commissioner of the department;

23 ~~(5)~~~~(4)~~ "Corporation" has the same meaning as in Section 7701(a)(3) of the Internal  
24 Revenue Code;

25 ~~(6)~~~~(5)~~ "Critical infrastructure" means property and equipment owned or used by  
26 communications networks, electric generation, transmission or distribution systems,  
27 gas distribution systems, or water or wastewater pipelines that service multiple

1 customers or citizens, including but not limited to real and personal property such as  
2 buildings, offices, lines, poles, pipes, structures, or equipment;

3 ~~(7)~~~~(6)~~ "Declared state disaster or emergency" means a disaster or emergency event  
4 for which:

5 (a) The Governor has declared a state of emergency pursuant to KRS 39A.100; or

6 (b) A presidential declaration of a federal major disaster or emergency has been  
7 issued;

8 ~~(8)~~~~(7)~~ "Department" means the Department of Revenue;

9 ~~(9)~~~~(8)~~ "Dependent" means those persons defined as dependents in the Internal  
10 Revenue Code;

11 ~~(10)~~~~(9)~~ "Disaster or emergency-related work" means repairing, renovating, installing,  
12 building, or rendering services that are essential to the restoration of critical  
13 infrastructure that has been damaged, impaired, or destroyed by a declared state  
14 disaster or emergency;

15 ~~(11)~~~~(10)~~ "Disaster response business" means any entity:

16 (a) That has no presence in the state and conducts no business in the state, except  
17 for disaster or emergency-related work during a disaster response period;

18 (b) Whose services are requested by a registered business or by a state or local  
19 government for purposes of performing disaster or emergency-related work in  
20 the state during a disaster response period; and

21 (c) That has no registrations, tax filings, or nexus in this state other than disaster  
22 or emergency-related work during the calendar year immediately preceding  
23 the declared state disaster or emergency;

24 ~~(12)~~~~(11)~~ "Disaster response employee" means an employee who does not work or  
25 reside in the state, except for disaster or emergency-related work during the disaster  
26 response period;

27 ~~(13)~~~~(12)~~ "Disaster response period" means a period that begins ten (10) days prior to

1 the first day of the Governor's declaration under KRS 39A.100, or the President's  
2 declaration of a federal major disaster or emergency, whichever occurs first, and  
3 that extends thirty (30) calendar days after the declared state disaster or emergency;

4 ~~(14)~~~~(13)~~ "Doing business in this state" includes but is not limited to:

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

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

20 ~~(15)~~~~(14)~~ "Employee" has the same meaning as in Section 3401(c) of the Internal  
21 Revenue Code;

22 ~~(16)~~~~(15)~~ "Employer" has the same meaning as in Section 3401(d) of the Internal  
23 Revenue Code;

24 ~~(17)~~~~(16)~~ "Fiduciary" has the same meaning as in Section 7701(a)(6) of the Internal  
25 Revenue Code;

26 ~~(18)~~~~(17)~~ "Financial institution" means:

- 27 (a) A national bank organized as a body corporate and existing or in the process

1 of organizing as a national bank association pursuant to the provisions of the  
2 National Bank Act, 12 U.S.C. secs. 21 et seq., in effect on December 31,  
3 1997, exclusive of any amendments made subsequent to that date;

4 (b) Any bank or trust company incorporated or organized under the laws of any  
5 state, except a banker's bank organized under KRS 286.3-135;

6 (c) Any corporation organized under the provisions of 12 U.S.C. secs. 611 to 631,  
7 in effect on December 31, 1997, exclusive of any amendments made  
8 subsequent to that date, or any corporation organized after December 31,  
9 1997, that meets the requirements of 12 U.S.C. secs. 611 to 631, in effect on  
10 December 31, 1997; or

11 (d) Any agency or branch of a foreign depository as defined in 12 U.S.C. sec.  
12 3101, in effect on December 31, 1997, exclusive of any amendments made  
13 subsequent to that date, or any agency or branch of a foreign depository  
14 established after December 31, 1997, that meets the requirements of 12 U.S.C.  
15 sec. 3101 in effect on December 31, 1997;

16 ~~(19)~~~~(18)~~ "Fiscal year" has the same meaning as in Section 7701(a)(24) of the Internal  
17 Revenue Code;

18 ~~(20)~~~~(19)~~ "Gross income":

19 (a) In the case of taxpayers other than corporations, has the same meaning as in  
20 Section 61 of the Internal Revenue Code; and

21 (b) In the case of corporations, means the amount calculated in KRS 141.039;

22 ~~(21)~~~~(20)~~ "Individual" means a natural person;

23 ~~(22)~~~~(21)~~ "Internal Revenue Code" means:

24 (a) For taxable years beginning on or after January 1, 2018, but before January 1,  
25 2019, the Internal Revenue Code in effect on December 31, 2017, including  
26 the provisions contained in Pub. L. No. 115-97 apply to the same taxable year  
27 as the provisions apply for federal purposes, exclusive of any amendments

1 made subsequent to that date, other than amendments that extend provisions  
2 in effect on December 31, 2017, that would otherwise terminate; and

3 (b) For taxable years beginning on or after January 1, 2019, the Internal Revenue  
4 Code in effect on December 31, 2018, exclusive of any amendments made  
5 subsequent to that date, other than amendments that extend provisions in  
6 effect on December 31, 2018, that would otherwise terminate;

7 ~~(23)~~~~(22)~~ "Limited liability pass-through entity" means any pass-through entity that  
8 affords any of its partners, members, shareholders, or owners, through function of  
9 the laws of this state or laws recognized by this state, protection from general  
10 liability for actions of the entity;

11 ~~(24)~~~~(23)~~ "Modified gross income" means the greater of:

12 (a) Adjusted gross income as defined in 26 U.S.C. sec. 62, including any  
13 amendments in effect on December 31 of the taxable year, and adjusted as  
14 follows:

- 15 1. Include interest income derived from obligations of sister states and  
16 political subdivisions thereof; and
- 17 2. Include lump-sum pension distributions taxed under the special  
18 transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or

19 (b) Adjusted gross income as defined in subsection ~~(2)~~~~(1)~~ of this section and  
20 adjusted to include lump-sum pension distributions taxed under the special  
21 transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);

22 ~~(25)~~~~(24)~~ "Net income":

23 (a) In the case of taxpayers other than corporations, means the amount calculated  
24 in KRS 141.019; and

25 (b) In the case of corporations, means the amount calculated in KRS 141.039;

26 ~~(26)~~~~(25)~~ "Nonresident" means any individual not a resident of this state;

27 ~~(27)~~~~(26)~~ "Number of withholding exemptions claimed" means the number of

1 withholding exemptions claimed in a withholding exemption certificate in effect  
2 under KRS 141.325, except that if no such certificate is in effect, the number of  
3 withholding exemptions claimed shall be considered to be zero;

4 ~~(28)~~~~(27)~~ "Part-year resident" means any individual that has established or abandoned  
5 Kentucky residency during the calendar year;

6 ~~(29)~~~~(28)~~ "Pass-through entity" means any partnership, S corporation, limited liability  
7 company, limited liability partnership, limited partnership, or similar entity  
8 recognized by the laws of this state that is not taxed for federal purposes at the  
9 entity level, but instead passes to each partner, member, shareholder, or owner their  
10 proportionate share of income, deductions, gains, losses, credits, and any other  
11 similar attributes;

12 ~~(30)~~~~(29)~~ "Payroll period" has the same meaning as in Section 3401(b) of the Internal  
13 Revenue Code;

14 ~~(31)~~~~(30)~~ "Person" has the same meaning as in Section 7701(a)(1) of the Internal  
15 Revenue Code;

16 **(32) "Qualified fire department" has the same meaning as in KRS 95A.510;**

17 ~~(33)~~~~(31)~~ "Registered business" means a business entity that owns or otherwise  
18 possesses critical infrastructure and that is registered to do business in the state prior  
19 to the declared state disaster or emergency;

20 ~~(34)~~~~(32)~~ "Resident" means an individual domiciled within this state or an individual  
21 who is not domiciled in this state, but maintains a place of abode in this state and  
22 spends in the aggregate more than one hundred eighty-three (183) days of the  
23 taxable year in this state;

24 ~~(35)~~~~(33)~~ "S corporation" has the same meaning as in Section 1361(a) of the Internal  
25 Revenue Code;

26 ~~(36)~~~~(34)~~ "State" means a state of the United States, the District of Columbia, the  
27 Commonwealth of Puerto Rico, or any territory or possession of the United States;

1 ~~(37)~~~~(35)~~ "Taxable net income":

2 (a) In the case of corporations that are taxable in this state, means "net income" as  
3 defined in subsection ~~(25)~~~~(24)~~ of this section;

4 (b) In the case of corporations that are taxable in this state and taxable in another  
5 state, means "net income" as defined in subsection ~~(25)~~~~(24)~~ of this section  
6 and as allocated and apportioned under KRS 141.120;

7 (c) For homeowners' associations as defined in Section 528(c) of the Internal  
8 Revenue Code, means "taxable income" as defined in Section 528(d) of the  
9 Internal Revenue Code. Notwithstanding the provisions of subsection  
10 ~~(22)~~~~(21)~~ of this section, the Internal Revenue Code sections referred to in  
11 this paragraph shall be those code sections in effect for the applicable tax year;  
12 and

13 (d) For a corporation that meets the requirements established under Section 856  
14 of the Internal Revenue Code to be a real estate investment trust, means "real  
15 estate investment trust taxable income" as defined in Section 857(b)(2) of the  
16 Internal Revenue Code, except that a captive real estate investment trust shall  
17 not be allowed any deduction for dividends paid;

18 ~~(38)~~~~(36)~~ "Taxable year" means the calendar year or fiscal year ending during such  
19 calendar year, upon the basis of which net income is computed, and in the case of a  
20 return made for a fractional part of a year under the provisions of this chapter or  
21 under administrative regulations prescribed by the commissioner, "taxable year"  
22 means the period for which the return is made; and

23 ~~(39)~~~~(37)~~ "Wages" has the same meaning as in Section 3401(a) of the Internal Revenue  
24 Code and includes other income subject to withholding as provided in Section  
25 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code.

26 ➔Section 2. KRS 141.019 is amended to read as follows:

27 In the case of taxpayers other than corporations:



- 1 (1) Adjusted gross income shall be calculated by subtracting from the gross income of  
2 those taxpayers the deductions allowed individuals by Section 62 of the Internal  
3 Revenue Code and adjusting as follows:
- 4 (a) Exclude income that is exempt from state taxation by the Kentucky  
5 Constitution and the Constitution and statutory laws of the United States;
- 6 (b) Exclude income from supplemental annuities provided by the Railroad  
7 Retirement Act of 1937 as amended and which are subject to federal income  
8 tax by Pub. L. No. 89-699;
- 9 (c) Include interest income derived from obligations of sister states and political  
10 subdivisions thereof;
- 11 (d) Exclude employee pension contributions picked up as provided for in KRS  
12 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610,  
13 and 161.540 upon a ruling by the Internal Revenue Service or the federal  
14 courts that these contributions shall not be included as gross income until such  
15 time as the contributions are distributed or made available to the employee;
- 16 (e) Exclude Social Security and railroad retirement benefits subject to federal  
17 income tax;
- 18 (f) Exclude any money received because of a settlement or judgment in a lawsuit  
19 brought against a manufacturer or distributor of "Agent Orange" for damages  
20 resulting from exposure to Agent Orange by a member or veteran of the  
21 Armed Forces of the United States or any dependent of such person who  
22 served in Vietnam;
- 23 (g) 1. a. For taxable years beginning after December 31, 2005, but before  
24 January 1, 2018, exclude up to forty-one thousand one hundred ten  
25 dollars (\$41,110) of total distributions from pension plans, annuity  
26 contracts, profit-sharing plans, retirement plans, or employee  
27 savings plans; and

- 1                   b. For taxable years beginning on or after January 1, 2018, exclude  
2                   up to thirty-one thousand one hundred ten dollars (\$31,110) of  
3                   total distributions from pension plans, annuity contracts, profit-  
4                   sharing plans, retirement plans, or employee savings plans.
- 5                   2. As used in this paragraph:
- 6                   a. "Annuity contract" has the same meaning as set forth in Section  
7                   1035 of the Internal Revenue Code;
- 8                   b. "Distributions" includes but is not limited to any lump-sum  
9                   distribution from pension or profit-sharing plans qualifying for the  
10                  income tax averaging provisions of Section 402 of the Internal  
11                  Revenue Code; any distribution from an individual retirement  
12                  account as defined in Section 408 of the Internal Revenue Code;  
13                  and any disability pension distribution; and
- 14                  c. "Pension plans, profit-sharing plans, retirement plans, or employee  
15                  savings plans" means any trust or other entity created or organized  
16                  under a written retirement plan and forming part of a stock bonus,  
17                  pension, or profit-sharing plan of a public or private employer for  
18                  the exclusive benefit of employees or their beneficiaries and  
19                  includes plans qualified or unqualified under Section 401 of the  
20                  Internal Revenue Code and individual retirement accounts as  
21                  defined in Section 408 of the Internal Revenue Code;
- 22                  (h) 1. a. Exclude the portion of the distributive share of a shareholder's net  
23                  income from an S corporation subject to the franchise tax imposed  
24                  under KRS 136.505 or the capital stock tax imposed under KRS  
25                  136.300; and
- 26                  b. Exclude the portion of the distributive share of a shareholder's net  
27                  income from an S corporation related to a qualified subchapter S

- 1 subsidiary subject to the franchise tax imposed under KRS  
2 136.505 or the capital stock tax imposed under KRS 136.300.
- 3 2. The shareholder's basis of stock held in an S corporation where the S  
4 corporation or its qualified subchapter S subsidiary is subject to the  
5 franchise tax imposed under KRS 136.505 or the capital stock tax  
6 imposed under KRS 136.300 shall be the same as the basis for federal  
7 income tax purposes;
- 8 (i) Exclude income received for services performed as a precinct worker for  
9 election training or for working at election booths in state, county, and local  
10 primaries or regular or special elections;
- 11 (j) Exclude any capital gains income attributable to property taken by eminent  
12 domain;
- 13 (k) 1. Exclude all income from all sources for members of the Armed Forces  
14 who are on active duty and who are killed in the line of duty, for the year  
15 during which the death occurred and the year prior to the year during  
16 which the death occurred.
- 17 2. For the purposes of this paragraph, "all income from all sources" shall  
18 include all federal and state death benefits payable to the estate or any  
19 beneficiaries;
- 20 (l) Exclude all military pay received by members of the Armed Forces while on  
21 active duty;
- 22 (m) 1. Include the amount deducted for depreciation under 26 U.S.C. sec. 167  
23 or 168; and
- 24 2. Exclude the amounts allowed by KRS 141.0101 for depreciation;
- 25 (n) Include the amount deducted under 26 U.S.C. sec. 199A;
- 26 (o) Ignore any change in the cost basis of the surviving spouse's share of property  
27 owned by a Kentucky community property trust occurring for federal income

- 1 tax purposes as a result of the death of the predeceasing spouse;~~and~~
- 2 (p) Allow the same treatment allowed under Pub. L. No. 116-260, secs. 276 and  
3 278, related to the tax treatment of forgiven covered loans, deductions  
4 attributable to those loans, and tax attributes associated with those loans for  
5 taxable years ending on or after March 27, 2020, but before January 1, 2022;  
6 and
- 7 **(q) Exclude volunteer firefighter wages received from a qualified fire**  
8 **department of up to five thousand dollars (\$5,000) for taxable years**  
9 **beginning on or after January 1, 2022, but before January 1, 2026; and**
- 10 (2) Net income shall be calculated by subtracting from adjusted gross income all the  
11 deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as  
12 modified by KRS 141.0101, except:
- 13 (a) Any deduction allowed by 26 U.S.C. sec. 164 for taxes;
- 14 (b) Any deduction allowed by 26 U.S.C. sec. 165 for losses, except wagering  
15 losses allowed under Section 165(d) of the Internal Revenue Code;
- 16 (c) Any deduction allowed by 26 U.S.C. sec. 213 for medical care expenses;
- 17 (d) Any deduction allowed by 26 U.S.C. sec. 217 for moving expenses;
- 18 (e) Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous  
19 deduction;
- 20 (f) Any deduction allowed by the Internal Revenue Code for amounts allowable  
21 under KRS 140.090(1)(h) in calculating the value of the distributive shares of  
22 the estate of a decedent, unless there is filed with the income return a  
23 statement that the deduction has not been claimed under KRS 140.090(1)(h);
- 24 (g) Any deduction allowed by 26 U.S.C. sec. 151 for personal exemptions and  
25 any other deductions in lieu thereof;
- 26 (h) Any deduction allowed for amounts paid to any club, organization, or  
27 establishment which has been determined by the courts or an agency

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

11 (i) A taxpayer may elect to claim the standard deduction allowed by KRS  
12 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63  
13 and as modified by this section.

14 ➔Section 3. KRS 141.0215 is amended to read as follows:

15 (1) Notwithstanding the provisions of KRS 141.010~~(2)~~~~(1)~~, for tax years commencing  
16 on or after January 1, 1998, the amount of all previously untaxed distributions from  
17 a retirement plan paid pursuant to KRS Chapters 6, 16, 21, 61, 67A, 78, 90, 95, 96,  
18 161, and 164, and the amount of all previously untaxed distributions paid from a  
19 retirement plan by the federal government, which are excluded from gross income  
20 pursuant to KRS 141.021, shall be included in gross income as follows:

21 (a) Multiply the total annual government retirement payments by a fraction whose  
22 numerator is the number of full or partial years of service performed for the  
23 governmental unit making the retirement payments after January 1, 1998, and  
24 whose denominator is the total number of full or partial years of service  
25 performed for the governmental unit making retirement payments, including  
26 purchased service credit. Purchased service credits shall be included in the  
27 numerator of the fraction only if the services for which credits are being

1                   purchased were provided after January 1, 1998.

2           (b) The resulting number shall be the amount included in gross income.

3   (2) Any taxpayer receiving government retirement payments from more than one (1)  
4       governmental unit shall separately determine the payment amount attributable to  
5       each unit to be included in gross income, using the formula set forth in subsection  
6       (1) of this section.