

1 AN ACT relating to revenue measures and declaring an emergency.

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

3 ➔Section 1. KRS 141.020 is amended to read as follows:

4 (1) An annual tax shall be paid for each taxable year by every resident individual of this
5 state upon his or her entire net income as defined in this chapter. The tax shall be
6 determined by applying the rates in subsection (2) of this section to net income and
7 subtracting allowable tax credits provided in subsection (3) of this section.

8 (2) (a) 1. For taxable years beginning on or after January 1, 2023, the tax shall
9 be four percent (4%) of net income.

10 2. Beginning on January 1, 2024, the department shall implement a
11 reduction in the tax rate according to the conditions in subparagraph
12 3. of this paragraph.

13 3. a. The tax shall be three and one-half percent (3.5%) of net income
14 for taxable years beginning on the January 1 following the fiscal
15 year in which the total general fund receipts exceed fourteen
16 billion five hundred million dollars (\$14,500,000,000).

17 b. The tax shall be three percent (3%) of net income for taxable
18 years beginning on the January 1 following the fiscal year in
19 which the total general fund receipts exceed fifteen billion five
20 hundred million dollars (\$15,500,000,000).

21 c. The tax shall be two and one-half percent (2.5%) of net income
22 for taxable years beginning on the January 1 following the fiscal
23 year in which the total general fund receipts exceed sixteen
24 billion five hundred million dollars (\$16,500,000,000).

25 d. The tax shall be two percent (2%) of net income for taxable years
26 beginning on the January 1 following the fiscal year in which
27 the total general fund receipts exceed seventeen billion five

1 hundred million dollars (\$17,500,000,000).

2 e. The tax shall be one and one-half percent (1.5%) of net income
3 for taxable years beginning on the January 1 following the fiscal
4 year in which the total general fund receipts exceed eighteen
5 billion five hundred million dollars (\$18,500,000,000).

6 f. The tax shall be one percent (1%) of net income for taxable years
7 beginning on the January 1 following the fiscal year in which
8 the total general fund receipts exceed nineteen billion five
9 hundred million dollars (\$19,500,000,000).

10 g. The tax shall be one-half of one percent (0.5%) for taxable years
11 beginning on the January 1 following the fiscal year in which
12 the total general fund receipts exceed twenty billion five hundred
13 million dollars (\$20,500,000,000).

14 h. The tax shall be zero for taxable years beginning on the January
15 1 following the fiscal year in which the total general fund
16 receipts exceed twenty-one billion five hundred million dollars
17 (\$21,500,000,000).

18 (b) Notwithstanding paragraph (a) of this subsection, any change in tax rate
19 shall not exceed a reduction of more than one (1) percentage point in a
20 calendar year.

21 (c) For taxable years beginning on or after January 1, 2018, but before January 1,
22 2023, the tax shall be five percent (5%) of net income.

23 (d)~~(b)~~ For taxable years beginning after December 31, 2004, and before
24 January 1, 2018, the tax shall be determined by applying the following rates to
25 net income:

- 26 1. Two percent (2%) of the amount of net income up to three thousand
27 dollars (\$3,000);

- 1 2. Three percent (3%) of the amount of net income over three thousand
2 dollars (\$3,000) and up to four thousand dollars (\$4,000);
- 3 3. Four percent (4%) of the amount of net income over four thousand
4 dollars (\$4,000) and up to five thousand dollars (\$5,000);
- 5 4. Five percent (5%) of the amount of net income over five thousand
6 dollars (\$5,000) and up to eight thousand dollars (\$8,000);
- 7 5. Five and eight-tenths percent (5.8%) of the amount of net income over
8 eight thousand dollars (\$8,000) and up to seventy-five thousand dollars
9 (\$75,000); and
- 10 6. Six percent (6%) of the amount of net income over seventy-five
11 thousand dollars (\$75,000).
- 12 (3) (a) The following tax credits, when applicable, shall be deducted from the result
13 obtained under subsection (2) of this section to arrive at the annual tax:
- 14 1. a. For taxable years beginning before January 1, 2014, twenty dollars
15 (\$20) for an unmarried individual; and
- 16 b. For taxable years beginning on or after January 1, 2014, and before
17 January 1, 2018, ten dollars (\$10) for an unmarried individual;
- 18 2. a. For taxable years beginning before January 1, 2014, twenty dollars
19 (\$20) for a married individual filing a separate return and an
20 additional twenty dollars (\$20) for the spouse of taxpayer if a
21 separate return is made by the taxpayer and if the spouse, for the
22 calendar year in which the taxable year of the taxpayer begins, had
23 no Kentucky gross income and is not the dependent of another
24 taxpayer; or forty dollars (\$40) for married persons filing a joint
25 return, provided neither spouse is the dependent of another
26 taxpayer. The determination of marital status for the purpose of
27 this section shall be made in the manner prescribed in Section 153

- 1 of the Internal Revenue Code; and
- 2 b. For taxable years beginning on or after January 1, 2014, and before
- 3 January 1, 2018, ten dollars (\$10) for a married individual filing a
- 4 separate return and an additional ten dollars (\$10) for the spouse of
- 5 a taxpayer if a separate return is made by the taxpayer and if the
- 6 spouse, for the calendar year in which the taxable year of the
- 7 taxpayer begins, had no Kentucky gross income and is not the
- 8 dependent of another taxpayer; or twenty dollars (\$20) for married
- 9 persons filing a joint return, provided neither spouse is the
- 10 dependent of another taxpayer. The determination of marital status
- 11 for the purpose of this section shall be made in the manner
- 12 prescribed in Section 153 of the Internal Revenue Code;
- 13 3. a. For taxable years beginning before January 1, 2014, twenty dollars
- 14 (\$20) credit for each dependent. No credit shall be allowed for any
- 15 dependent who has made a joint return with his or her spouse; and
- 16 b. For taxable years beginning on or after January 1, 2014, and before
- 17 January 1, 2018, ten dollars (\$10) credit for each dependent. No
- 18 credit shall be allowed for any dependent who has made a joint
- 19 return with his or her spouse;
- 20 4. An additional forty dollars (\$40) credit if the taxpayer has attained the
- 21 age of sixty-five (65) before the close of the taxable year;
- 22 5. An additional forty dollars (\$40) credit for taxpayer's spouse if a
- 23 separate return is made by the taxpayer and if the taxpayer's spouse has
- 24 attained the age of sixty-five (65) before the close of the taxable year,
- 25 and, for the calendar year in which the taxable year of the taxpayer
- 26 begins, has no Kentucky gross income and is not the dependent of
- 27 another taxpayer;

- 1 6. An additional forty dollars (\$40) credit if the taxpayer is blind at the
- 2 close of the taxable year;
- 3 7. An additional forty dollars (\$40) credit for taxpayer's spouse if a
- 4 separate return is made by the taxpayer and if the taxpayer's spouse is
- 5 blind, and, for the calendar year in which the taxable year of the taxpayer
- 6 begins, has no Kentucky gross income and is not the dependent of
- 7 another taxpayer; and
- 8 ~~8. [In the case of a fiduciary, other than an estate, the allowable tax credit~~
- 9 ~~shall be two dollars (\$2);~~
- 10 ~~9. In the case of an estate, the allowable tax credit shall be ten dollars~~
- 11 ~~(\$10); and~~
- 12 ~~10.]~~ An additional twenty dollars (\$20) credit shall be allowed if the taxpayer
- 13 is a member of the Kentucky National Guard at the close of the taxable
- 14 year.
- 15 (b) In the case of nonresidents, the tax credits allowable under this subsection
- 16 shall be the portion of the credits that are represented by the ratio of the
- 17 taxpayer's Kentucky adjusted gross income as determined by KRS 141.019 to
- 18 the taxpayer's adjusted gross income as defined in Section 62 of the Internal
- 19 Revenue Code. However, in the case of a married nonresident taxpayer with
- 20 income from Kentucky sources, whose spouse has no income from Kentucky
- 21 sources, the taxpayer shall determine allowable tax credit(s) by either:
- 22 1. The method contained above applied to the taxpayer's tax credit(s),
- 23 excluding credits for a spouse and dependents; or
- 24 2. Prorating the taxpayer's tax credit(s) plus the tax credits for the
- 25 taxpayer's spouse and dependents by the ratio of the taxpayer's Kentucky
- 26 adjusted gross income as determined by KRS 141.019 to the total joint
- 27 federal adjusted gross income of the taxpayer and the taxpayer's spouse.

1 (c) In the case of a part-year resident, the tax credits allowable under this
2 subsection shall be the portion of the credits represented by the ratio of the
3 taxpayer's Kentucky adjusted gross income as determined by KRS 141.019 to
4 the taxpayer's adjusted gross income as defined in Section 62 of the Internal
5 Revenue Code.

6 (4) An annual tax shall be paid for each taxable year as specified in this section upon
7 the entire net income except as herein provided, from all tangible property located
8 in this state, from all intangible property that has acquired a business situs in this
9 state, and from business, trade, profession, occupation, or other activities carried on
10 in this state, by natural persons not residents of this state. A nonresident individual
11 shall be taxable only upon the amount of income received by the individual from
12 labor performed, business done, or from other activities in this state, from tangible
13 property located in this state, and from intangible property which has acquired a
14 business situs in this state; provided, however, that the situs of intangible personal
15 property shall be at the residence of the real or beneficial owner and not at the
16 residence of a trustee having custody or possession thereof. For taxable years
17 beginning on or after January 1, 2021, but before January 1, 2025, the tax imposed
18 by this section shall not apply to a disaster response employee or to a disaster
19 response business. The remainder of the income received by such nonresident shall
20 be deemed nontaxable by this state.

21 (5) Subject to the provisions of KRS 141.081, any individual may elect to pay the
22 annual tax imposed by KRS 141.023 in lieu of the tax levied under this section.

23 (6) A part-year resident is subject to taxation, as prescribed in subsection (1) of this
24 section, during that portion of the taxable year that the individual is a resident and,
25 as prescribed in subsection (4) of this section, during that portion of the taxable year
26 when the individual is a nonresident.

27 ➔Section 2. KRS 139.010 is amended to read as follows:

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

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

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

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

8 a. Bowling centers;

9 b. Skating rinks;

10 c. Health spas;

11 d. Swimming pools;

12 e. Tennis courts;

13 f. Weight training facilities;

14 g. Fitness and recreational sports centers; and

15 h. Golf courses, both public and private;

16 regardless of whether the fee paid is per use or in any other form,
17 including but not limited to an initiation fee, monthly fee, membership
18 fee, or combination thereof.

19 (b) "Admissions" does not include ~~the~~

20 ~~1. any fee paid to enter or participate in a fishing tournament; or~~

21 ~~2. Any fee paid for the use of a boat ramp for the purpose of allowing boats~~
22 ~~to be launched into or hauled out from the water];~~

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

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

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

5 (5) (a) "Cosmetic surgery services" means modifications to all areas of the head,
6 neck and body to enhance appearance through surgical and medical
7 techniques.

8 (b) "Cosmetic surgery services" does not include reconstruction of facial and
9 body defects due to birth disorders, trauma, burns, or disease;

10 ~~(6) [(5)]~~ "Department" means the Department of Revenue;

11 ~~(7) [(6)]~~ (a) "Digital audio-visual works" means a series of related images which,
12 when shown in succession, impart an impression of motion, with
13 accompanying sounds, if any.

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

16 (c) "Digital audio-visual works" shall not include video greeting cards, video
17 games, and electronic games;

18 ~~(8) [(7)]~~ (a) "Digital audio works" means works that result from the fixation of a
19 series of musical, spoken, or other sounds.

20 (b) "Digital audio works" includes ringtones, recorded or live songs, music,
21 readings of books or other written materials, speeches, or other sound
22 recordings.

23 (c) "Digital audio works" shall not include audio greeting cards sent by electronic
24 mail;

25 ~~(9) [(8)]~~ (a) "Digital books" means works that are generally recognized in the
26 ordinary and usual sense as books, including any literary work expressed in
27 words, numbers, or other verbal or numerical symbols or indicia if the literary

1 work is generally recognized in the ordinary or usual sense as a book.

2 (b) "Digital books" shall not include digital audio-visual works, digital audio
3 works, periodicals, magazines, newspapers, or other news or information
4 products, chat rooms, or Web logs;

5 ~~(10)~~~~(9)~~ (a) "Digital code" means a code which provides a purchaser with a right to
6 obtain one (1) or more types of digital property. A "digital code" may be
7 obtained by any means, including electronic mail messaging or by tangible
8 means, regardless of the code's designation as a song code, video code, or
9 book code.

10 (b) "Digital code" shall not include a code that represents:

- 11 1. A stored monetary value that is deducted from a total as it is used by the
12 purchaser; or
- 13 2. A redeemable card, gift card, or gift certificate that entitles the holder to
14 select specific types of digital property;

15 ~~(11)~~~~(10)~~ (a) "Digital property" means any of the following which is transferred
16 electronically:

- 17 1. Digital audio works;
- 18 2. Digital books;
- 19 3. Finished artwork;
- 20 4. Digital photographs;
- 21 5. Periodicals;
- 22 6. Newspapers;
- 23 7. Magazines;
- 24 8. Video greeting cards;
- 25 9. Audio greeting cards;
- 26 10. Video games;
- 27 11. Electronic games; or

12. Any digital code related to this property.

(b) "Digital property" shall not include digital audio-visual works or satellite radio programming;

~~(12)~~~~(11)~~ (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipient.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail retailer for inclusion in the package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address;

~~(13)~~~~(12)~~ "Directly used in the manufacturing or industrial processing process" means the process that commences with the movement of raw materials from storage into a continuous, unbroken, integrated process and ends when the finished product is packaged and ready for sale;

~~(14)~~~~(13)~~ (a) "Extended warranty services" means services provided through a service contract agreement between the contract provider and the purchaser where the purchaser agrees to pay compensation for the contract and the provider agrees to repair, replace, support, or maintain tangible personal property, ~~or~~ digital property, **or real property** according to the terms of the contract ~~if~~:

1. ~~The service contract agreement is sold or purchased on or after July 1, 2018; and~~

2. ~~the tangible personal property or digital property for which the service contract agreement is provided is subject to tax under this chapter or under KRS 138.460}.~~

(b) "Extended warranty services" does not include the sale of a service contract

1 agreement for tangible personal property to be used by a small telephone
2 utility as defined in KRS 278.516 or a Tier III CMRS provider as defined in
3 KRS 65.7621 to deliver communications services as defined in KRS 136.602
4 or broadband as defined in KRS 278.5461;

5 ~~(15)~~~~(14)~~ (a) "Finished artwork" means final art that is used for actual reproduction by
6 photomechanical or other processes or for display purposes.

7 (b) "Finished artwork" includes:

- 8 1. Assemblies;
- 9 2. Charts;
- 10 3. Designs;
- 11 4. Drawings;
- 12 5. Graphs;
- 13 6. Illustrative materials;
- 14 7. Lettering;
- 15 8. Mechanicals;
- 16 9. Paintings; and
- 17 10. Paste-ups;

18 ~~(16)~~~~(15)~~ (a) "Gross receipts" and "sales price" mean the total amount or
19 consideration, including cash, credit, property, and services, for which
20 tangible personal property, digital property, or services are sold, leased, or
21 rented, valued in money, whether received in money or otherwise, without any
22 deduction for any of the following:

- 23 1. The retailer's cost of the tangible personal property, digital property, or
24 services sold;
- 25 2. The cost of the materials used, labor or service cost, interest, losses, all
26 costs of transportation to the retailer, all taxes imposed on the retailer, or
27 any other expense of the retailer;

- 1 3. Charges by the retailer for any services necessary to complete the sale;
- 2 4. Delivery charges, which are defined as charges by the retailer for the
- 3 preparation and delivery to a location designated by the purchaser
- 4 including transportation, shipping, postage, handling, crating, and
- 5 packing;
- 6 5. Any amount for which credit is given to the purchaser by the retailer,
- 7 other than credit for tangible personal property or digital property traded
- 8 when the tangible personal property or digital property traded is of like
- 9 kind and character to the property purchased and the property traded is
- 10 held by the retailer for resale; and
- 11 6. The amount charged for labor or services rendered in installing or
- 12 applying the tangible personal property, digital property, or service sold.
- 13 (b) "Gross receipts" and "sales price" shall include consideration received by the
- 14 retailer from a third party if:
- 15 1. The retailer actually receives consideration from a third party and the
- 16 consideration is directly related to a price reduction or discount on the
- 17 sale to the purchaser;
- 18 2. The retailer has an obligation to pass the price reduction or discount
- 19 through to the purchaser;
- 20 3. The amount of consideration attributable to the sale is fixed and
- 21 determinable by the retailer at the time of the sale of the item to the
- 22 purchaser; and
- 23 4. One (1) of the following criteria is met:
- 24 a. The purchaser presents a coupon, certificate, or other
- 25 documentation to the retailer to claim a price reduction or discount
- 26 where the coupon, certificate, or documentation is authorized,
- 27 distributed, or granted by a third party with the understanding that

1 the third party will reimburse any seller to whom the coupon,
2 certificate, or documentation is presented;

3 b. The price reduction or discount is identified as a third-party price
4 reduction or discount on the invoice received by the purchaser or
5 on a coupon, certificate, or other documentation presented by the
6 purchaser; or

7 c. The purchaser identifies himself or herself to the retailer as a
8 member of a group or organization entitled to a price reduction or
9 discount. A "preferred customer" card that is available to any
10 patron does not constitute membership in such a group.

11 (c) "Gross receipts" and "sales price" shall not include:

12 1. Discounts, including cash, term, or coupons that are not reimbursed by a
13 third party and that are allowed by a retailer and taken by a purchaser on
14 a sale;

15 2. Interest, financing, and carrying charges from credit extended on the sale
16 of tangible personal property, digital property, or services, if the amount
17 is separately stated on the invoice, bill of sale, or similar document given
18 to the purchaser;

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

22 4. Local alcohol regulatory license fees authorized under KRS 243.075 that
23 are separately stated on the invoice, bill of sale, or similar document
24 given to the purchaser.

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

27 ~~(17)~~~~(16)~~ "In this state" or "in the state" means within the exterior limits of the

1 Commonwealth and includes all territory within these limits owned by or ceded to
2 the United States of America;

3 ~~(18)~~~~(17)~~ "Industrial processing" includes:

- 4 (a) Refining;
- 5 (b) Extraction of minerals, ores, coal, clay, stone, petroleum, or natural gas;
- 6 (c) Mining, quarrying, fabricating, and industrial assembling;
- 7 (d) The processing and packaging of raw materials, in-process materials, and
8 finished products; and
- 9 (e) The processing and packaging of farm and dairy products for sale;

10 ~~(19)~~~~(18)~~ (a) "Lease or rental" means any transfer of possession or control of tangible
11 personal property for a fixed or indeterminate term for consideration. A lease
12 or rental shall include future options to:

- 13 1. Purchase the property; or
- 14 2. Extend the terms of the agreement and agreements covering trailers
15 where the amount of consideration may be increased or decreased by
16 reference to the amount realized upon sale or disposition of the property
17 as defined in 26 U.S.C. sec. 7701(h)(1).

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

- 19 1. A transfer of possession or control of property under a security
20 agreement or deferred payment plan that requires the transfer of title
21 upon completion of the required payments;
- 22 2. A transfer of possession or control of property under an agreement that
23 requires the transfer of title upon completion of the required payments
24 and payment of an option price that does not exceed the greater of one
25 hundred dollars (\$100) or one percent (1%) of the total required
26 payments; or
- 27 3. Providing tangible personal property and an operator for the tangible

1 personal property for a fixed or indeterminate period of time. To qualify
2 for this exclusion, the operator must be necessary for the equipment to
3 perform as designed, and the operator must do more than maintain,
4 inspect, or setup the tangible personal property.

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 ~~(20)~~~~[(19)]~~ (a) "Machinery for new and expanded industry" means machinery:

9 1. Directly used in the manufacturing or industrial processing process of:

10 a. Tangible personal property at a plant facility;

11 b. Distilled spirits or wine at a plant facility or on the premises of a
12 distiller, rectifier, winery, or small farm winery licensed under
13 KRS 243.030 that includes a retail establishment on the premises;
14 or

15 c. Malt beverages at a plant facility or on the premises of a brewer or
16 microbrewery licensed under KRS 243.040 that includes a retail
17 establishment;

18 2. Which is incorporated for the first time into:

19 a. A plant facility established in this state; or

20 b. Licensed premises located in this state; and

21 3. Which does not replace machinery in the plant facility or licensed
22 premises unless that machinery purchased to replace existing machinery:

23 a. Increases the consumption of recycled materials at the plant
24 facility by not less than ten percent (10%);

25 b. Performs different functions;

26 c. Is used to manufacture a different product; or

27 d. Has a greater productive capacity, as measured in units of

1 production, than the machinery being replaced.

2 (b) "Machinery for new and expanded industry" does not include repair,
3 replacement, or spare parts of any kind, regardless of whether the purchase of
4 repair, replacement, or spare parts is required by the manufacturer or seller as
5 a condition of sale or as a condition of warranty;

6 ~~(21)~~~~(20)~~ "Manufacturing" means any process through which material having little or no
7 commercial value for its intended use before processing has appreciable commercial
8 value for its intended use after processing by the machinery;

9 ~~(22)~~ "Marketing services" means developing marketing objectives and policies, sales
10 ~~forecasting, new product developing and pricing, licensing, and franchise~~
11 ~~planning;~~

12 ~~(23)~~~~(21)~~ "Marketplace" means any physical or electronic means through which one (1)
13 or more retailers may advertise and sell tangible personal property, digital property,
14 or services, or lease tangible personal property or digital property, such as a catalog,
15 Internet Web site, or television or radio broadcast, regardless of whether the
16 tangible personal property, digital property, or retailer is physically present in this
17 state;

18 ~~(24)~~~~(22)~~ (a) "Marketplace provider" means a person, including any affiliate of the
19 person, that facilitates a retail sale by satisfying subparagraphs 1. and 2. of this
20 paragraph as follows:

- 21 1. The person directly or indirectly:
- 22 a. Lists, makes available, or advertises tangible personal property,
23 digital property, or services for sale by a marketplace retailer in a
24 marketplace owned, operated, or controlled by the person;
- 25 b. Facilitates the sale of a marketplace retailer's product through a
26 marketplace by transmitting or otherwise communicating an offer
27 or acceptance of a retail sale of tangible personal property, digital

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

- 1 i. Brands or otherwise identifies sales as those of the marketplace
2 provider; and
- 3 2. The person directly or indirectly:
- 4 a. Collects the sales price or purchase price of a retail sale of tangible
5 personal property, digital property, or services;
- 6 b. Provides payment processing services for a retail sale of tangible
7 personal property, digital property, or services;
- 8 c. Through terms and conditions, agreements, or arrangements with a
9 third party, collects payment in connection with a retail sale of
10 tangible personal property, digital property, or services from a
11 purchaser and transmits that payment to the marketplace retailer,
12 regardless of whether the person collecting and transmitting the
13 payment receives compensation or other consideration in exchange
14 for the service; or
- 15 d. Provides a virtual currency that purchasers are allowed or required
16 to use to purchase tangible personal property, digital property, or
17 services.
- 18 (b) "Marketplace provider" includes but is not limited to a person that satisfies the
19 requirements of this subsection through the ownership, operation, or control
20 of a digital distribution service, digital distribution platform, online portal, or
21 application store;
- 22 ~~(25)~~~~[(23)]~~ "Marketplace retailer" means a seller that makes retail sales through any
23 marketplace owned, operated, or controlled by a marketplace provider;
- 24 ~~(26)~~~~[(24)]~~ (a) "Occasional sale" includes:
- 25 1. A sale of tangible personal property or digital property not held or used
26 by a seller in the course of an activity for which he or she is required to
27 hold a seller's permit, provided such sale is not one (1) of a series of

- 1 sales sufficient in number, scope, and character to constitute an activity
2 requiring the holding of a seller's permit. In the case of the sale of the
3 entire, or a substantial portion of the nonretail assets of the seller, the
4 number of previous sales of similar assets shall be disregarded in
5 determining whether or not the current sale or sales shall qualify as an
6 occasional sale; or
- 7 2. Any transfer of all or substantially all the tangible personal property or
8 digital property held or used by a person in the course of such an activity
9 when after such transfer the real or ultimate ownership of such property
10 is substantially similar to that which existed before such transfer.
- 11 (b) For the purposes of this subsection, stockholders, bondholders, partners, or
12 other persons holding an interest in a corporation or other entity are regarded
13 as having the "real or ultimate ownership" of the tangible personal property or
14 digital property of such corporation or other entity;
- 15 ~~(27)~~~~(25)~~ (a) "Other direct mail" means any direct mail that is not advertising and
16 promotional direct mail, regardless of whether advertising and promotional
17 direct mail is included in the same mailing.
- 18 (b) "Other direct mail" includes but is not limited to:
- 19 1. Transactional direct mail that contains personal information specific to
20 the addressee, including but not limited to invoices, bills, statements of
21 account, and payroll advices;
- 22 2. Any legally required mailings, including but not limited to privacy
23 notices, tax reports, and stockholder reports; and
- 24 3. Other nonpromotional direct mail delivered to existing or former
25 shareholders, customers, employees, or agents, including but not limited
26 to newsletters and informational pieces.
- 27 (c) "Other direct mail" does not include the development of billing information or

1 the provision of any data processing service that is more than incidental to the
2 production of printed material;

3 ~~(28)~~~~(26)~~ "Person" includes any individual, firm, copartnership, joint venture,
4 association, social club, fraternal organization, corporation, estate, trust, business
5 trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or
6 agency, or any other group or combination acting as a unit;

7 ~~(29)~~~~(27)~~ "Permanent," as the term applies to digital property, means perpetual or for an
8 indefinite or unspecified length of time;

9 **(30) (a) "Photography and photofinishing services" means:**

- 10 **1. The taking, developing, or printing of an original photograph, or**
11 **2. Image editing including shadow removal, tone adjustments, vertical**
12 **and horizontal alignment and cropping, composite image creation,**
13 **formatting, watermarking printing, and delivery of an original**
14 **photograph in the form of tangible personal property, digital property,**
15 **or other media.**

16 **(b) "Photography and photofinishing services" does not include photography**
17 **services necessary for medical or dental health;**

18 ~~(31)~~~~(28)~~ "Plant facility" means a single location that is exclusively dedicated to
19 manufacturing or industrial processing activities. A location shall be deemed to be
20 exclusively dedicated to manufacturing or industrial processing activities even if
21 retail sales are made there, provided that the retail sales are incidental to the
22 manufacturing or industrial processing activities occurring at the location. The term
23 "plant facility" shall not include any restaurant, grocery store, shopping center, or
24 other retail establishment;

25 ~~(32)~~~~(29)~~ (a) "Prewritten computer software" means:

- 26 1. Computer software, including prewritten upgrades, that are not designed
27 and developed by the author or other creator to the specifications of a

1 specific purchaser;

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

5 3. Any portion of prewritten computer software that is modified or
6 enhanced in any manner, where the modification or enhancement is
7 designed and developed to the specifications of a specific purchaser,
8 unless there is a reasonable, separately stated charge on an invoice or
9 other statement of the price to the purchaser for the modification or
10 enhancement.

11 (b) When a person modifies or enhances computer software of which the person
12 is not the author or creator, the person shall be deemed to be the author or
13 creator only of the modifications or enhancements the person actually made.

14 (c) The combining of two (2) or more prewritten computer software programs or
15 portions thereof does not cause the combination to be other than prewritten
16 computer software;

17 (33) "Prewritten computer software access services" means the right of access to
18 prewritten computer software where the object of the transaction is to use the
19 prewritten computer software while possession of the prewritten computer
20 software is maintained by the seller or a third party, wherever located, regardless
21 of whether the charge for the access or use is on a per use, per user, per license,
22 subscription, or some other basis;

23 (34)~~(30)~~ (a) "Purchase" means any transfer of title or possession, exchange, barter,
24 lease, or rental, conditional or otherwise, in any manner or by any means
25 whatsoever, of:

- 26 1. Tangible personal property;
27 2. An extended warranty service;

1 3. Digital property transferred electronically; or

2 4. Services included in KRS 139.200;

3 for a consideration.

4 (b) "Purchase" includes:

5 1. When performed outside this state or when the customer gives a resale
6 certificate, the producing, fabricating, processing, printing, or imprinting
7 of tangible personal property for a consideration for consumers who
8 furnish either directly or indirectly the materials used in the producing,
9 fabricating, processing, printing, or imprinting;

10 2. A transaction whereby the possession of tangible personal property or
11 digital property is transferred but the seller retains the title as security for
12 the payment of the price; and

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

17 ~~(35)~~~~[(31)]~~ "Recycled materials" means materials which have been recovered or diverted
18 from the solid waste stream and reused or returned to use in the form of raw
19 materials or products;

20 ~~(36)~~~~[(32)]~~ "Recycling purposes" means those activities undertaken in which materials
21 that would otherwise become solid waste are collected, separated, or processed in
22 order to be reused or returned to use in the form of raw materials or products;

23 ~~(37)~~~~[(33)]~~ "Remote retailer" means a retailer with no physical presence in this state;

24 ~~(38)~~~~[(34)]~~ (a) "Repair, replacement, or spare parts" means any tangible personal
25 property used to maintain, restore, mend, or repair machinery or equipment.

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

1 ~~(39)~~~~(35)~~ (a) "Retailer" means:

- 2 1. Every person engaged in the business of making retail sales of tangible
3 personal property, digital property, or furnishing any services in a retail
4 sale included in KRS 139.200;
- 5 2. Every person engaged in the business of making sales at auction of
6 tangible personal property or digital property owned by the person or
7 others for storage, use or other consumption, except as provided in
8 paragraph (c) of this subsection;
- 9 3. Every person making more than two (2) retail sales of tangible personal
10 property, digital property, or services included in KRS 139.200 during
11 any twelve (12) month period, including sales made in the capacity of
12 assignee for the benefit of creditors, or receiver or trustee in bankruptcy;
- 13 4. Any person conducting a race meeting under the provision of KRS
14 Chapter 230, with respect to horses which are claimed during the
15 meeting.

16 (b) When the department determines that it is necessary for the efficient
17 administration of this chapter to regard any salesmen, representatives,
18 peddlers, or canvassers as the agents of the dealers, distributors, supervisors or
19 employers under whom they operate or from whom they obtain the tangible
20 personal property, digital property, or services sold by them, irrespective of
21 whether they are making sales on their own behalf or on behalf of the dealers,
22 distributors, supervisors or employers, the department may so regard them and
23 may regard the dealers, distributors, supervisors or employers as retailers for
24 purposes of this chapter.

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

- 1 a. The qualifying entity, not the person making sales at the auction, is
2 sponsoring the auction;
- 3 b. The purchaser of tangible personal property at the auction directly
4 pays the qualifying entity sponsoring the auction for the property
5 and not the person making the sales at the auction; and
- 6 c. The qualifying entity, not the person making sales at the auction, is
7 responsible for the collection, control, and disbursement of the
8 auction proceeds.
- 9 2. If the conditions set forth in subparagraph 1. of this paragraph are met,
10 the qualifying entity sponsoring the auction shall be the retailer for
11 purposes of the sales made at the charitable auction.
- 12 3. For purposes of this paragraph, "qualifying entity" means a resident:
- 13 a. Church;
- 14 b. School;
- 15 c. Civic club; or
- 16 d. Any other nonprofit charitable, religious, or educational
17 organization;
- 18 ~~(40)~~~~(36)~~ "Retail sale" means any sale, lease, or rental for any purpose other than resale,
19 sublease, or subrent;
- 20 ~~(41)~~~~(37)~~ (a) "Ringtones" means digitized sound files that are downloaded onto a
21 device and that may be used to alert the customer with respect to a
22 communication.
- 23 (b) "Ringtones" shall not include ringback tones or other digital files that are not
24 stored on the purchaser's communications device;
- 25 ~~(42)~~~~(38)~~ (a) "Sale" means:
- 26 1. The furnishing of any services included in KRS 139.200;
- 27 2. Any transfer of title or possession, exchange, barter, lease, or rental,

1 conditional or otherwise, in any manner or by any means whatsoever, of:

2 a. Tangible personal property; or

3 b. Digital property transferred electronically;

4 for a consideration.

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

6 1. The producing, fabricating, processing, printing, or imprinting of
7 tangible personal property or digital property for a consideration for
8 purchasers who furnish, either directly or indirectly, the materials used
9 in the producing, fabricating, processing, printing, or imprinting;

10 2. A transaction whereby the possession of tangible personal property or
11 digital property is transferred, but the seller retains the title as security
12 for the payment of the price; and

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

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

19 ~~(43)~~~~[(39)]~~ "Seller" includes every person engaged in the business of selling tangible
20 personal property, digital property, or services of a kind, the gross receipts from the
21 retail sale of which are required to be included in the measure of the sales tax, and
22 every person engaged in making sales for resale;

23 ~~(44)~~~~[(40)]~~ (a) "Storage" includes any keeping or retention in this state for any purpose
24 except sale in the regular course of business or subsequent use solely outside
25 this state of tangible personal property or digital property purchased from a
26 retailer.

27 (b) "Storage" does not include the keeping, retaining, or exercising any right or

1 power over tangible personal property for the purpose of subsequently
2 transporting it outside the state for use thereafter solely outside the state, or for
3 the purpose of being processed, fabricated, or manufactured into, attached to,
4 or incorporated into, other tangible personal property to be transported outside
5 the state and thereafter used solely outside the state;

6 ~~(45)~~~~[(41)]~~ "Tangible personal property" means personal property which may be seen,
7 weighed, measured, felt, or touched, or which is in any other manner perceptible to
8 the senses and includes natural, artificial, and mixed gas, electricity, water, steam,
9 and prewritten computer software;

10 ~~(46)~~~~[(42)]~~ "Taxpayer" means any person liable for tax under this chapter;

11 (47) "Telemarketing services" means services provided via telephone, facsimile,
12 electronic mail, or other modes of communications to another person, which are
13 unsolicited by that person, for the purposes of:

14 (a) 1. Promoting products or services;

15 2. Taking orders; or

16 3. Providing information or assistance regarding the products or
17 services; or

18 (b) Soliciting contributions;

19 ~~(48)~~~~[(43)]~~ "Transferred electronically" means accessed or obtained by the purchaser by
20 means other than tangible storage media; and

21 ~~(49)~~~~[(44)]~~ (a) "Use" includes the exercise of:

22 1. Any right or power over tangible personal property or digital property
23 incident to the ownership of that property, or by any transaction in which
24 possession is given, or by any transaction involving digital property or
25 tangible personal property where the right of access is granted; or

26 2. Any right or power to benefit any services subject to tax under
27 subsection (2)(p) to (bb) of Section 3 of this Act~~from extended~~

1 ~~warranty services~~].

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

4 1. Selling tangible personal property or digital property in the regular
5 course of business; or

6 2. Subsequently transporting tangible personal property outside the state
7 for use thereafter solely outside the state, or for the purpose of being
8 processed, fabricated, or manufactured into, attached to, or incorporated
9 into, other tangible personal property to be transported outside the state
10 and thereafter used solely outside the state.

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

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

14 (1) Retail sales of:

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

17 (b) Digital property regardless of whether:

- 18 1. The purchaser has the right to permanently use the property;
19 2. The purchaser's right to access or retain the property is not permanent; or
20 3. The purchaser's right of use is conditioned upon continued payment; and

21 (2) The furnishing of the following services ~~following~~:

22 (a) The rental of any room or rooms, lodgings, campsites, or accommodations
23 furnished by any hotel, motel, inn, tourist camp, tourist cabin, campgrounds,
24 recreational vehicle parks, or any other place in which rooms, lodgings,
25 campsites, or accommodations are regularly furnished to transients for a
26 consideration. The tax shall not apply to rooms, lodgings, campsites, or
27 accommodations supplied for a continuous period of thirty (30) days or more

- 1 to a person;
- 2 (b) Sewer services;
- 3 (c) The sale of admissions, except:
- 4 1. Admissions to racetracks taxed under KRS 138.480;
- 5 2. ~~Admissions to historical sites exempt under KRS 139.482;~~
- 6 ~~3.~~ Admissions taxed under KRS 229.031;
- 7 ~~3.~~ ~~4.~~ Admissions that are charged by nonprofit educational, charitable, or
- 8 religious institutions and for which an exemption is provided under KRS
- 9 139.495; and
- 10 ~~4.~~ ~~5.~~ Admissions that are charged by nonprofit civic, governmental, or other
- 11 nonprofit organizations and for which an exemption is provided under
- 12 KRS 139.498;
- 13 (d) Prepaid calling service and prepaid wireless calling service;
- 14 (e) Intrastate, interstate, and international communications services as defined in
- 15 KRS 139.195, except the furnishing of pay telephone service as defined in
- 16 KRS 139.195;
- 17 (f) Distribution, transmission, or transportation services for natural gas that is for
- 18 storage, use, or other consumption in this state, excluding those services
- 19 furnished:
- 20 1. For natural gas that is classified as residential use as provided in KRS
- 21 139.470(7); or
- 22 2. To a seller or reseller of natural gas;
- 23 (g) Landscaping services, including but not limited to:
- 24 1. Lawn care and maintenance services;
- 25 2. Tree trimming, pruning, or removal services;
- 26 3. Landscape design and installation services;
- 27 4. Landscape care and maintenance services; and

- 1 5. Snow plowing or removal services;
- 2 (h) Janitorial services, including but not limited to residential and commercial
- 3 cleaning services, and carpet, upholstery, and window cleaning services;
- 4 (i) Small animal veterinary services, excluding veterinary services for equine,
- 5 cattle, poultry, swine, sheep, goats, llamas, alpacas, ratite birds, buffalo, and
- 6 cervids;
- 7 (j) Pet care services, including but not limited to grooming and boarding services,
- 8 pet sitting services, and pet obedience training services;
- 9 (k) Industrial laundry services, including but not limited to industrial uniform
- 10 supply services, protective apparel supply services, and industrial mat and rug
- 11 supply services;
- 12 (l) Non-coin-operated laundry and dry cleaning services;
- 13 (m) Linen supply services, including but not limited to table and bed linen supply
- 14 services and nonindustrial uniform supply services;
- 15 (n) Indoor skin tanning services, including but not limited to tanning booth or
- 16 tanning bed services and spray tanning services;
- 17 (o) Non-medical diet and weight reducing services;
- 18 (p) ~~Limousine services, if a driver is provided; and~~
- 19 ~~(q)~~ Extended warranty services;
- 20 (q) Photography and photo finishing services;
- 21 (r) Marketing services;
- 22 (s) Telemarketing services;
- 23 (t) Public opinion and research polling services;
- 24 (u) Lobbying services;
- 25 (v) Executive employee recruitment services;
- 26 (w) Web site design and development services;
- 27 (x) Web site hosting services;

1 (y) Facsimile transmission services;

2 (z) Private mailroom services, including:

3 1. Presorting mail and packages by postal code;

4 2. Address barcoding;

5 3. Tracking;

6 4. Delivery to postal service; and

7 5. Private mailbox rentals;

8 (aa) Bodyguard services;

9 (ab) Residential and nonresidential security system monitoring services;

10 (ac) Private investigation services;

11 (ad) Process server services;

12 (ae) Repossession of tangible personal property services;

13 (af) Personal background check services;

14 (ag) Personal financial planning and personal investment management services;

15 (ah) Parking services,

16 1. Including:

17 a. Valet services; and

18 b. The use of parking lots and parking structures; but

19 2. Excluding any parking services at an educational institution;

20 (ai) Road and travel services provided by automobile clubs as defined in KRS

21 281.010;

22 (aj) Travel arrangement and reservation services, including:

23 1. Arranging or assembling tours;

24 2. Providing guide services, including archeological, museum, tourist,
25 hunting, and fishing;

26 3. Conducting scenic and sightseeing tours; and

27 4. Providing reservation services, including accommodations furnished

- 1 to transients, entertainment events, and travel services;
- 2 (ak) Condominium time-share exchange services;
- 3 (al) Rental of space for meetings, conventions, short-term business uses,
- 4 entertainment events, weddings, banquets, parties, and other short-term
- 5 social events;
- 6 (am) Social event planning and coordination services;
- 7 (an) Pleasure watercraft docking, launching, and storage services;
- 8 (ao) Leisure, recreational, and athletic instructional services;
- 9 (ap) Recreational camp tuition and fees;
- 10 (aq) Personal fitness training services;
- 11 (ar) Massage services, except when medically necessary;
- 12 (as) Cosmetic surgery services;
- 13 (at) Body modification services, including tattooing, piercing, scarification,
- 14 branding, tongue splitting, transdermal and subdermal implants, ear
- 15 pointing, teeth pointing, and any other modifications that are not necessary
- 16 for medical or dental health;
- 17 (au) Testing services, except testing for medical, educational, or veterinary
- 18 reasons;
- 19 (av) Interior decorating and design services;
- 20 (aw) Household moving services;
- 21 (ax) Specialized design services, including the design of clothing, costumes,
- 22 fashion, furs, jewelry, shoes, textiles, and lighting;
- 23 (ay) Lapidary services, including cutting, polishing, and engraving precious
- 24 stones;
- 25 (az) Labor and services to repair or maintain commercial refrigeration
- 26 equipment and systems when no tangible personal property is sold in that
- 27 transaction including service calls and trip charges;

- 1 *(ba) Labor to repair or alter apparel, footwear, watches, or jewelry when no*
2 *tangible personal property is sold in that transaction; and*
3 *(bb) Prewritten computer software access services.*

4 ➔Section 4. KRS 139.482 is amended to read as follows:

- 5 (1) "Historical site," as used in this section, means properties listed by the United States
6 department of interior in the National Register as authorized by title 16, United
7 States Code, section 470(f).

- 8 (2) There is excluded from the computation of the amount of taxes imposed by this
9 chapter :-

10 ~~(a) Gross receipts from charges for admission to historical sites, operated by a~~
11 ~~nonprofit corporation, society, or organization; and~~

12 ~~(b) gross receipts from the sales of materials, supplies, and services to a~~
13 ~~nonprofit corporation, society, or organization to be used to restore, maintain,~~
14 ~~or operate a historical site.~~

15 ➔Section 5. KRS 139.260 is amended to read as follows:

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

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

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

24 (b) Purchased through a fully completed certificate of exemption or fully
25 completed Streamlined Sales and Use Tax Agreement Certificate of
26 Exemption in accordance with KRS 139.270; or

27 (c) Purchased according to administrative regulations promulgated by the

1 department governing a direct pay authorization;

2 (2) A service included in KRS 139.200(2)(a) to (f) unless the person takes from the
3 purchaser a certificate to the effect that the service is purchased through a fully
4 completed certificate of exemption or fully completed Streamlined Sales and Use
5 Tax Agreement Certificate of Exemption in accordance with KRS 139.270; and

6 (3) A service included in KRS 139.200(2)(g) to ~~(bb)~~~~((q))~~ unless the person takes from
7 the purchaser a certificate to the effect that the service is:

8 (a) Purchased for resale according to KRS 139.270;

9 (b) Purchased through a fully completed certificate of exemption or fully
10 completed Streamlined Sales and Use Tax Agreement Certificate of
11 Exemption in accordance with KRS 139.270; or

12 (c) Purchased according to administrative regulations promulgated by the
13 department governing a direct pay authorization.

14 ➔Section 6. KRS 139.310 is amended to read as follows:

15 (1) An excise tax is hereby imposed on the storage, use, or other consumption in this
16 state of tangible personal property, digital property, and services listed under
17 subsection (2)(p) to (bb) of Section 3 of this Act~~[extended warranty services]~~
18 purchased for storage, use, or other consumption in this state at the rate of six
19 percent (6%) of the sales price.

20 (2) The excise tax applies to the purchase of digital property regardless of whether:

21 (a) The purchaser has the right to permanently use the goods;

22 (b) The purchaser's right to access or retain the digital property is not permanent;
23 or

24 (c) The purchaser's right of use is conditioned upon continued payment.

25 ➔Section 7. KRS 139.340 is amended to read as follows:

26 (1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business
27 in this state shall collect the tax imposed by KRS 139.310 from the purchaser and

1 give to the purchaser a receipt therefor in the manner and form prescribed by the
2 department. The taxes collected or required to be collected by the retailer under this
3 section shall be deemed to be held in trust for and on account of the
4 Commonwealth.

5 (2) "Retailer engaged in business in this state" as used in KRS 139.330 and this section
6 includes any of the following:

7 (a) Any retailer maintaining, occupying, or using, permanently or temporarily,
8 directly or indirectly, or through a subsidiary or any other related entity,
9 representative, or agent, by whatever name called, an office, place of
10 distribution, sales or sample room or place, warehouse or storage place, or
11 other place of business. Property owned by a person who has contracted with a
12 printer for printing, which consists of the final printed product, property which
13 becomes a part of the final printed product, or copy from which the printed
14 product is produced, and which is located at the premises of the printer, shall
15 not be deemed to be an office, place of distribution, sales or sample room or
16 place, warehouse or storage place, or other place of business maintained,
17 occupied, or used by the person;

18 (b) Any retailer having any representative, agent, salesman, canvasser, or solicitor
19 operating in this state under the authority of the retailer or its subsidiary for
20 the purpose of selling, delivering, or the taking of orders for any tangible
21 personal property, digital property, or any services subject to tax under
22 subsection (2)(p) to (bb) of Section 3 of this Act~~[an extended warranty~~
23 ~~service]~~. An unrelated printer with which a person has contracted for printing
24 shall not be deemed to be a representative, agent, salesman, canvasser, or
25 solicitor for the person;

26 (c) Any retailer soliciting orders for tangible personal property, digital property,
27 or any services subject to tax under subsection (2)(p) to (bb) of Section 3 of

- 1 ~~***this Act***~~~~[an extended warranty service]~~ from residents of this state on a
2 continuous, regular, or systematic basis in which the solicitation of the order,
3 placement of the order by the customer or the payment for the order utilizes
4 the services of any financial institution, telecommunication system, radio or
5 television station, cable television service, print media, or other facility or
6 service located in this state;
- 7 (d) Any retailer deriving receipts from the lease or rental of tangible personal
8 property situated in this state;
- 9 (e) Any retailer soliciting orders for tangible personal property, digital property,
10 or ***any services subject to tax under subsection (2)(p) to (bb) of Section 3 of***
11 ~~***this Act***~~~~[an extended warranty service]~~ from residents of this state on a
12 continuous, regular, systematic basis if the retailer benefits from an agent or
13 representative operating in this state under the authority of the retailer to
14 repair or service tangible personal property or digital property sold by the
15 retailer;
- 16 (f) Any retailer located outside Kentucky that uses a representative in Kentucky,
17 either full-time or part-time, if the representative performs any activities that
18 help establish or maintain a marketplace for the retailer, including receiving or
19 exchanging returned merchandise; or
- 20 (g) 1. Any remote retailer selling tangible personal property or digital property
21 delivered or transferred electronically to a purchaser in this state,
22 including retail sales facilitated by a marketplace provider on behalf of
23 the remote retailer, if:
- 24 a. The remote retailer sold tangible personal property or digital
25 property that was delivered or transferred electronically to a
26 purchaser in this state in two hundred (200) or more separate
27 transactions in the previous calendar year or the current calendar

1 year; or

2 b. The remote retailer's gross receipts derived from the sale of
3 tangible personal property or digital property delivered or
4 transferred electronically to a purchaser in this state in the previous
5 calendar year or current calendar year exceeds one hundred
6 thousand dollars (\$100,000).

7 2. Any remote retailer that meets either threshold provided in subparagraph
8 1. of this paragraph shall register for a sales and use tax permit and
9 collect the tax imposed by KRS 139.310 from the purchaser no later
10 than the first day of the calendar month that is at the most sixty (60) days
11 after either threshold is reached.

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

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

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

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

20 (a) Nonreturnable and returnable containers when sold without the contents to
21 persons who place the contents in the container and sell the contents together
22 with the container; and

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

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

- 1 (3) Gross receipts from occasional sales of tangible personal property or digital
2 property and the storage, use, or other consumption in this state of tangible personal
3 property or digital property, the transfer of which to the purchaser is an occasional
4 sale;
- 5 (4) Gross receipts from sales of tangible personal property to a common carrier,
6 shipped by the retailer via the purchasing carrier under a bill of lading, whether the
7 freight is paid in advance or the shipment is made freight charges collect, to a point
8 outside this state and the property is actually transported to the out-of-state
9 destination for use by the carrier in the conduct of its business as a common carrier;
- 10 (5) Gross receipts from sales of tangible personal property sold through coin-operated
11 bulk vending machines, if the sale amounts to fifty cents (\$0.50) or less, if the
12 retailer is primarily engaged in making the sales and maintains records satisfactory
13 to the department. As used in this subsection, "bulk vending machine" means a
14 vending machine containing unsorted merchandise which, upon insertion of a coin,
15 dispenses the same in approximately equal portions, at random and without
16 selection by the customer;
- 17 (6) Gross receipts from sales to any cabinet, department, bureau, commission, board, or
18 other statutory or constitutional agency of the state and gross receipts from sales to
19 counties, cities, or special districts as defined in KRS 65.005. This exemption shall
20 apply only to purchases of tangible personal property, digital property, or services
21 for use solely in the government function. A purchaser not qualifying as a
22 governmental agency or unit shall not be entitled to the exemption even though the
23 purchaser may be the recipient of public funds or grants;
- 24 (7) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky
25 residents for use in heating, water heating, cooking, lighting, and other
26 residential uses if the sewer services, water, and fuel are purchased and
27 declared by the resident as used in his or her place of domicile.

1 **(b)** As used in this subsection:~~[,]~~

2 **1.** "Fuel" shall include but not be limited to natural gas, electricity, fuel oil,
3 bottled gas, coal, coke, and wood; ~~and~~~~[.]~~

4 **2.** *"Place of domicile" means the place where an individual has his or*
5 *her legal, true, fixed, and permanent home and principal*
6 *establishment, and to which, whenever the individual is absent, the*
7 *individual has the intention of returning.*

8 **(c)** Determinations of eligibility for the exemption shall be made by the
9 department.~~[.]~~

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

12 ~~1. Classified as "residential" by a utility company as defined by applicable tariffs~~
13 ~~filed with and accepted by the Public Service Commission;~~

14 ~~2. Classified as "residential" by a municipally owned electric distributor which~~
15 ~~purchases its power at wholesale from the Tennessee Valley Authority;~~

16 ~~3. Classified as "residential" by the governing body of a municipally owned~~
17 ~~electric distributor which does not purchase its power from the Tennessee~~
18 ~~Valley Authority, if the "residential" classification is reasonably consistent~~
19 ~~with the definitions of "residential" contained in tariff filings accepted and~~
20 ~~approved by the Public Service Commission with respect to utilities which are~~
21 ~~subject to Public Service Commission regulation.~~

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

24 **(d)(e)** The exemption shall~~[not]~~ apply if charges for sewer service, water, and
25 fuel are billed to an owner or operator of a multi-unit residential rental facility
26 or mobile home and recreational vehicle park *if the sewer services, water, and*
27 *fuel are purchased for and declared by the Kentucky resident as used in his*

1 ~~or her place of domicile.~~~~[other than residential classification; and]~~

2 ~~(e)~~~~(d)~~ The exemption shall apply also to residential property which may be
3 held by legal or equitable title, by the entireties, jointly, in common, as a
4 condominium, or indirectly by the stock ownership or membership
5 representing the owner's or member's proprietary interest in a corporation
6 owning a fee or a leasehold initially in excess of ninety-eight (98) years if the
7 sewer services, water, and fuel are purchased for and declared by the
8 Kentucky resident as used in his or her place of domicile;

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

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

- 17 1. Tangible personal property at a plant facility;
18 2. Distilled spirits or wine at a plant facility or on the premises of a
19 distiller, rectifier, winery, or small farm winery licensed under KRS
20 243.030 that includes a retail establishment on the premises; or
21 3. Malt beverages at a plant facility or on the premises of a brewer or
22 microbrewery licensed under KRS 243.040 that includes a retail
23 establishment;
24 and which will be for sale.

25 (b) The following tangible personal property shall qualify for exemption under
26 this subsection:

- 27 1. Materials which enter into and become an ingredient or component part

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

1 at the end of the manufacturing process.

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

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

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

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

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

22 (a) As used in this subsection:

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

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

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

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

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

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

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

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

25 (15) Amounts received from a tobacco buydown. As used in this subsection, "buydown"
26 means an agreement whereby an amount, whether paid in money, credit, or
27 otherwise, is received by a retailer from a manufacturer or wholesaler based upon

- 1 the quantity and unit price of tobacco products sold at retail that requires the retailer
2 to reduce the selling price of the product to the purchaser without the use of a
3 manufacturer's or wholesaler's coupon or redemption certificate;
- 4 (16) Gross receipts from the sale of tangible personal property or digital property
5 returned by a purchaser when the full sales price is refunded either in cash or credit.
6 This exclusion shall not apply if the purchaser, in order to obtain the refund, is
7 required to purchase other tangible personal property or digital property at a price
8 greater than the amount charged for the property that is returned;
- 9 (17) Gross receipts from the sales of gasoline and special fuels subject to tax under KRS
10 Chapter 138;
- 11 (18) The amount of any tax imposed by the United States upon or with respect to retail
12 sales, whether imposed on the retailer or the consumer, not including any
13 manufacturer's excise or import duty;
- 14 (19) Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which
15 is:
- 16 (a) Sold to a Kentucky resident, registered for use on the public highways, and
17 upon which any applicable tax levied by KRS 138.460 has been paid; or
- 18 (b) Sold to a nonresident of Kentucky if the nonresident registers the motor
19 vehicle in a state that:
- 20 1. Allows residents of Kentucky to purchase motor vehicles without
21 payment of that state's sales tax at the time of sale; or
- 22 2. Allows residents of Kentucky to remove the vehicle from that state
23 within a specific period for subsequent registration and use in Kentucky
24 without payment of that state's sales tax;
- 25 (20) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and
26 trailer as defined in KRS 189.010(17);
- 27 (21) Gross receipts from the collection of:

- 1 (a) Any fee or charge levied by a local government pursuant to KRS 65.760;
- 2 (b) The charge imposed by KRS 65.7629(3);
- 3 (c) The fee imposed by KRS 65.7634; and
- 4 (d) The service charge imposed by KRS 65.7636;
- 5 (22) Gross receipts derived from charges for labor or services to apply, install, repair, or
- 6 maintain tangible personal property directly used in manufacturing or industrial
- 7 processing process of:
- 8 (a) Tangible personal property at a plant facility;
- 9 (b) Distilled spirits or wine at a plant facility or on the premises of a distiller,
- 10 rectifier, winery, or small farm winery licensed under KRS 243.030; or
- 11 (c) Malt beverages at a plant facility or on the premises of a brewer or
- 12 microbrewery licensed under KRS 243.040
- 13 that is not otherwise exempt under subsection (9) of this section or KRS
- 14 139.480(10), if the charges for labor or services are separately stated on the invoice,
- 15 bill of sale, or similar document given to purchaser;
- 16 (23) (a) For persons selling services included in KRS 139.200(2)(g) to ~~(p)~~~~(q)~~ prior to
- 17 January 1, 2019, gross receipts derived from the sale of those services if the
- 18 gross receipts were less than six thousand dollars (\$6,000) during calendar
- 19 year 2018. When gross receipts from these services exceed six thousand
- 20 dollars (\$6,000) in a calendar year:
- 21 1. All gross receipts over six thousand dollars (\$6,000) are taxable in that
- 22 calendar year; and
- 23 2. All gross receipts are subject to tax in subsequent calendar years.
- 24 (b) **For persons selling services included in subsection (2)(q) to (bb) of Section**
- 25 **3 of this Act prior to January 1, 2023, gross receipts derived from the sale of**
- 26 **those services if the gross receipts were less than six thousand dollars**
- 27 **(\$6,000) during calendar year 2021. When gross receipts from these services**

1 exceed six thousand dollars (\$6,000) in a calendar year:

2 1. All gross receipts over six thousand dollars (\$6,000) are taxable in that
3 calendar year; and

4 2. All gross receipts are subject to tax in subsequent calendar years.

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

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

14 1. All gross receipts over six thousand dollars (\$6,000) are taxable in that
15 calendar year; and

16 2. All gross receipts are subject to tax in subsequent calendar years.

17 (b) For persons that first begin making sales of services included in subsection
18 (2)(q) to (bb) of Section 3 of this Act on or after January 1, 2023, gross
19 receipts derived from the sale of those services if the gross receipts are less
20 than six thousand dollars (\$6,000) within the first calendar year of
21 operation. When gross receipts from these services exceed six thousand
22 dollars (\$6,000) in a calendar year:

23 1. All gross receipts over six thousand dollars (\$6,000) are taxable in that
24 calendar year; and

25 2. All gross receipts are subject to tax in subsequent calendar years.

26 (c) The exemption provided in this subsection shall not apply to a person that is
27 also engaged in the business of selling tangible personal property, digital

1 property, or services included in KRS 139.200(2)(a) to (f).

2 ➔Section 9. KRS 281.010 is amended to read as follows:

3 As used in this chapter:

- 4 (1) "Automobile club" means a person that, for consideration, promises to assist its
5 members or subscribers in matters relating to the assumption of or reimbursement
6 of the expense or a portion thereof for towing of a motor vehicle; emergency road
7 service; matters relating to the operation, use, and maintenance of a motor vehicle;
8 and the supplying of services which includes, augments, or is incidental to theft or
9 reward services, discount services, arrest bond services, lock and key services, trip
10 interruption services, and legal fee reimbursement services in defense of traffic-
11 related offenses;
- 12 (2) "Automobile utility trailer" means any trailer or semitrailer designed for use with
13 and towed behind a passenger motor vehicle;
- 14 (3) "Automobile utility trailer certificate" means a certificate authorizing a person to
15 engage in the business of automobile utility trailer lessor;
- 16 (4) "Automobile utility trailer lessor" means any person operating under an automobile
17 utility trailer certificate who is engaged in the business of leasing or renting
18 automobile utility trailers, but shall not include the agents of such persons;
- 19 (5) "Broker" means a person selected by the cabinet through a request for proposal
20 process to coordinate human service transportation delivery within a specific
21 delivery area. A broker may also provide transportation services within the specific
22 delivery area for which the broker is under contract with the cabinet;
- 23 (6) "Bus" means a motor vehicle operating under a bus certificate transporting
24 passengers for hire between points over regular routes;
- 25 (7) "Bus certificate" means a certificate granting authority for the operation of one (1)
26 or more buses;
- 27 (8) "Cabinet" means the Kentucky Transportation Cabinet;

- 1 (9) "Certificate" means a certificate of compliance issued under this chapter to motor
2 carriers;
- 3 (10) "Charter bus" means a motor vehicle operating under a charter bus certificate
4 providing for-hire intrastate transportation of a group of persons who, pursuant to a
5 common purpose under a single contract at a fixed charge for the motor vehicle,
6 have acquired the exclusive use of the motor vehicle to travel together under an
7 itinerary either specified in advance or modified after having left the place of origin;
- 8 (11) "Charter bus certificate" means a certificate granting authority for the operation of
9 one (1) or more charter buses;
- 10 (12) "Commissioner" means the commissioner of the Department of Vehicle Regulation;
- 11 (13) "CTAC" means the Coordinated Transportation Advisory Committee created in
12 KRS 281.870;
- 13 (14) "Department" means the Department of Vehicle Regulation;
- 14 (15) "Delivery area" means one (1) or more regions established by the cabinet in
15 administrative regulations promulgated under KRS Chapter 13A for the purpose of
16 providing human service transportation delivery in that region;
- 17 (16) "Disabled persons vehicle carrier" means a motor carrier for hire, transporting
18 passengers including the general public who require transportation in disabled
19 persons vehicles;
- 20 (17) "Disabled persons vehicle" means a motor vehicle operating under a disabled
21 persons vehicle certificate especially equipped for the transportation of passengers
22 with disabilities in accordance with 49 C.F.R. pt. 38, and is designed or constructed
23 with not more than fifteen (15) regular seats. It shall not mean an ambulance as
24 defined in KRS 311A.010. It shall not mean a motor vehicle equipped with a
25 stretcher;
- 26 (18) "Disabled persons vehicle certificate" means a certificate granting authority for the
27 operation of one (1) or more disabled persons vehicles transporting passengers for

1 hire;

2 (19) "Driveaway" means the transporting and delivering of motor vehicles, except
3 semitrailers and trailers, whether destined to be used in either a private or for-hire
4 capacity, under their own power or by means of a full mount method, saddle mount
5 method, the tow bar method, or any combination of them over the highways of this
6 state from any point of origin to any point of destination for hire. "Driveaway" does
7 not include the transportation of such vehicles by the full mount method on trailers
8 or semitrailers;

9 (20) "Driveaway certificate" means a certificate granting authority for the operation of
10 one (1) or more motor carrier vehicles operating as a driveaway;

11 (21) "Driver" means the person physically operating the motor vehicle;

12 (22) "Flatbed/rollback service" means a form of towing service which involves moving
13 vehicles by loading them onto a flatbed platform;

14 (23) "Highway" means all public roads, highways, streets, and ways in this state, whether
15 within a municipality or outside of a municipality;

16 (24) "Household goods" has the same meaning as in 49 C.F.R. sec. 375.103;

17 (25) "Household goods carrier" has the same meaning as "household goods motor
18 carrier" in 49 C.F.R. sec. 375.103;

19 (26) "Household goods certificate" means a certificate granting authority for the
20 operation of one (1) or more household goods vehicles;

21 (27) "Human service transportation delivery" means the provision of transportation
22 services to any person that is an eligible recipient in one (1) of the following state
23 programs:

24 (a) Nonemergency medical transportation under KRS Chapter 205;

25 (b) Mental health, intellectual disabilities, or comprehensive care under KRS
26 Chapter 202A, 202B, 210, or 645;

27 (c) Work programs for public assistance recipients under KRS Chapter 205;

- 1 (d) Adult services under KRS Chapter 205, 209, 216, or 273;
- 2 (e) Vocational rehabilitation under KRS Chapter 151B or 157; or
- 3 (f) Blind industries or rehabilitation under KRS Chapter 151B or 163;
- 4 (28) "Interstate commerce" has the same meaning as in 49 C.F.R. sec. 390.5;
- 5 (29) "Intrastate commerce" has the same meaning as in 49 C.F.R. sec. 390.5;
- 6 (30) "Limousine" means a motor vehicle operating under a limousine certificate that is
- 7 designed or constructed with not more than fifteen (15) regular seats;
- 8 (31) "Limousine certificate" means a certificate granting authority for the operation of
- 9 one (1) or more limousines transporting passengers for hire;
- 10 (32) "Mobile application" means an application or a computer program designed to run
- 11 on a smartphone, tablet computer, or other mobile device that is used by a TNC to
- 12 connect drivers with potential passengers;
- 13 (33) "Motor carrier" means any person in either a private or for-hire capacity who owns,
- 14 controls, operates, manages, or leases, except persons leasing to authorized motor
- 15 carriers, any motor vehicle for the transportation of passengers or property upon any
- 16 highway, and any person who engages in the business of automobile utility trailer
- 17 lessor, vehicle towing, driveaway, or U-Drive-It;
- 18 (34) "Motor carrier vehicle" means a motor vehicle used by a motor carrier to transport
- 19 passengers or property;
- 20 (35) "Motor carrier vehicle license" means a license issued by the department for a motor
- 21 carrier vehicle authorized to operate under a certificate;
- 22 (36) "Motor carrier license plate" means a license plate issued by the department to a
- 23 motor carrier authorized to operate under a certificate other than a household goods,
- 24 property, TNC, peer-to-peer car sharing, or U-Drive-It certificate;
- 25 (37) "Motor vehicle" means any motor-propelled vehicle used for the transportation of
- 26 passengers or property on a public highway, including any such vehicle operated as
- 27 a unit in combination with other vehicles;

1 (38) "Passenger" means an individual or group of people;

2 (39) "Peer-to-peer car sharing":

3 (a) Means the authorized use of a motor vehicle by an individual other than the
4 vehicle's owner through a peer-to-peer car sharing program; and

5 (b) Does not:

6 1. Include the operation of a U-Drive-It as defined in this section; or

7 2. Involve the sale or provision of rental vehicle insurance as defined in
8 KRS 304.9-020;

9 (40) "Peer-to-peer car sharing certificate" means a certificate granting the authority
10 for the operation of a peer-to-peer car sharing program;

11 (41) "Peer-to-peer car sharing company" means a person that operates a peer-to-peer
12 car sharing program;

13 (42) "Peer-to-peer car sharing program":

14 (a) Means a business platform that connects shared vehicle owners with shared
15 vehicle drivers to enable the sharing of motor vehicles for financial
16 consideration; and

17 (b) Does not include a:

18 1. U-Drive-It;

19 2. Motor vehicle renting company as defined in KRS 281.687;

20 3. Rental vehicle agent as defined in KRS 304.9-020; or

21 4. Service provider that is solely providing hardware or software as a
22 service to a person or entity that is not effectuating payment of
23 financial consideration for use of a shared vehicle;

24 (43) "Permit" means a temporary permit of compliance issued under this chapter for a
25 specified period not to exceed ten (10) days, and for a specific vehicle, to any motor
26 carrier, including one who is a nonresident of the Commonwealth, who operates a
27 motor vehicle and is not entitled to an exemption from the payment of fees imposed

1 under KRS 186.050 because of the terms of a reciprocal agreement between the
2 Commonwealth and the state in which the vehicle is licensed;

3 ~~(44)~~~~[(40)]~~ "Person" means any individual, firm, partnership, corporation, company,
4 association, or joint stock association, and includes any trustee, assignee, or
5 personal representative thereof;

6 ~~(45)~~~~[(41)]~~ "Platoon" means a group of two (2) individual commercial motor vehicles
7 traveling in a unified manner at electronically coordinated speeds at following
8 distances that are closer than would ordinarily be allowed under KRS
9 189.340(8)(b);

10 ~~(46)~~~~[(42)]~~ "Prearranged ride" means the period of time that begins when a transportation
11 network company driver accepts a requested ride through a digital network or
12 mobile application, continues while the driver transports the rider in a personal
13 vehicle, and ends when the transportation network company services end;

14 ~~(47)~~~~[(43)]~~ "Pre-trip acceptance liability policy" means the transportation network
15 company liability insurance coverage for incidents involving the driver for a period
16 of time when a driver is logged into a transportation network company's digital
17 network or mobile application but is not engaged in a prearranged ride;

18 ~~(48)~~~~[(44)]~~ "Property" means general or specific commodities, including hazardous and
19 nonhazardous materials;

20 ~~(49)~~~~[(45)]~~ "Property certificate" means a certificate granting authority for the
21 transportation of property, other than household goods, not exempt under KRS
22 281.605;

23 ~~(50)~~~~[(46)]~~ "Recovery":

24 (a) Means a form of towing service which involves moving vehicles by the use of
25 a wheel-lift device, such as a lift, crane, hoist, winch, cradle, jack, automobile
26 ambulance, tow dolly, or any other similar device as requested by a state or
27 local law enforcement agency; and

1 (b) Includes:

- 2 1. Relocating a vehicle or cargo from a place where towing is not possible
3 to a place where towing is possible; and
4 2. The cleanup of debris or cargo, and returning an area to pre-event
5 condition;

6 ~~(51)~~~~[(47)]~~ "Regular route" means the scheduled transportation of passengers between
7 designated points over designated routes under time schedules that provide a
8 regularity of services;

9 ~~(52)~~~~[(48)]~~ "Regular seat" means a seat ordinarily and customarily used by one (1)
10 passenger and, in determining such seating capacity, the manufacturer's rating may
11 be considered;

12 (53) "Shared vehicle":

13 (a) Means a motor vehicle that is available for car sharing through a peer-to-
14 peer car sharing program; and

15 (b) Does not include a motor vehicle leased or rented by a person operating
16 under a U-Drive-It certificate;

17 (54) "Shared vehicle driver" means an individual who has been authorized to drive
18 the shared vehicle by the shared vehicle owner under a car sharing program
19 agreement;

20 (55) "Shared vehicle owner":

21 (a) Means the registered owner, or a person designated by the registered owner,
22 of a motor vehicle made available for sharing to shared vehicle drivers,
23 through a peer-to-peer car sharing program; and

24 (b) Does not include a:

- 25 1. Person operating a U-Drive-It;
26 2. Motor vehicle renting company as defined in KRS 281.687; or
27 3. Rental vehicle agent as defined in KRS 304.9-020;

1 ~~(56)~~~~(49)~~ "Storage facility" means any lot, facility, or other property used to store motor
2 vehicles that have been removed from another location by a tow truck;

3 ~~(57)~~~~(50)~~ "Street hail" means a request for service made by a potential passenger using
4 hand gestures or verbal statement;

5 ~~(58)~~~~(51)~~ "Subcontractor" means a person who has signed a contract with a broker to
6 provide human service transportation delivery within a specific delivery area and
7 who meets human service transportation delivery requirements, including proper
8 operating authority;

9 ~~(59)~~~~(52)~~ "Tariff" means the listing of compensation received by a motor carrier for
10 household goods that includes the manner in which and the amount of fares an
11 authorized motor carrier may charge;

12 ~~(60)~~~~(53)~~ "Taxicab" means a motor vehicle operating under a taxicab certificate that is
13 designed or constructed with not more than eight (8) regular seats and may be
14 equipped with a taximeter;

15 ~~(61)~~~~(54)~~ "Taxicab certificate" means a certificate granting authority for the operation of
16 one (1) or more taxicabs transporting passengers for hire;

17 ~~(62)~~~~(55)~~ "Taximeter" means an instrument or device approved by the department that
18 automatically calculates and plainly indicates the charge to a passenger for hire who
19 is being charged on the basis of mileage;

20 ~~(63)~~~~(56)~~ "Tow truck" means a motor vehicle equipped to provide any form of towing
21 service, including recovery service or flatbed/rollback service;

22 ~~(64)~~~~(57)~~ "Tow truck operator" means an individual who operates a tow truck as an
23 employee or agent of a towing company;

24 ~~(65)~~~~(58)~~ "Towing" means:

25 (a) Emergency towing, which is the towing of a motor vehicle, with or without
26 the owner's consent, because of:

27 1. A motor vehicle accident on a public highway;

- 1 2. An incident related to an emergency; or
- 2 3. An incident that necessitates the removal of the motor vehicle from a
- 3 location for public safety reasons;
- 4 (b) Private property towing, which is the towing of a motor vehicle, without the
- 5 owner's consent, from private property:
- 6 1. On which the motor vehicle was illegally parked; or
- 7 2. Because of an exigent circumstance necessitating its removal to another
- 8 location; and
- 9 (c) Seizure towing, which is the towing of a motor vehicle for law enforcement
- 10 purposes involving the:
- 11 1. Maintenance of the chain of custody of evidence;
- 12 2. Forfeiture of assets; or
- 13 3. Delinquency of highway fuel tax, weight distance tax, or any other taxes
- 14 and fees administered by the Transportation Cabinet;
- 15 (66)~~[(59)]~~ "Towing company":
- 16 (a) Means a service or business operating as a motor carrier that:
- 17 1. Tows or otherwise moves motor vehicles by means of a tow truck; or
- 18 2. Owns or operates a storage lot;
- 19 (b) Includes a tow truck operator acting on behalf of a towing company when
- 20 appropriate in the context; and
- 21 (c) Does not include an automobile club, car dealership, insurance company,
- 22 repossession company, lienholders and entities hired by lienholders for the
- 23 purpose of repossession, local government, or any other entity that contracts
- 24 with a towing company;
- 25 (67)~~[(60)]~~ "Transportation network company" or "TNC" means a person or entity that
- 26 connects passengers through its digital network or mobile application to its drivers
- 27 for the provision of transportation network company services;

1 ~~(68)~~~~((61))~~ "Transportation network company certificate" or "TNC certificate" means a
2 certificate granting the authority for the operation of one (1) or more transportation
3 network company vehicles transporting passengers for hire;

4 ~~(69)~~~~((62))~~ "Transportation network company driver" or "TNC driver" means an
5 individual who operates a motor vehicle that is owned or leased by the individual,
6 or a motor vehicle for which the driver is an insured driver and has the permission
7 of the owner or lessee of the motor vehicle, and used to provide transportation
8 network company services;

9 ~~(70)~~~~((63))~~ "Transportation network company service" or "TNC service" means a
10 prearranged passenger transportation service offered or provided through the use of
11 a transportation network company mobile application or digital network to connect
12 potential passengers with transportation network company drivers;

13 ~~(71)~~~~((64))~~ "Transportation network company vehicle" or "TNC vehicle" means a
14 privately owned or leased motor vehicle, designed or constructed with not more
15 than eight (8) regular seats, operating under a transportation network company
16 certificate;

17 ~~(72)~~~~((65))~~ "U-Drive-It" means any person operating under a U-Drive-It certificate who
18 leases or rents a motor vehicle for consideration to be used for the transportation of
19 persons or property, but for which no driver is furnished, and the use of which
20 motor vehicle is not for the transportation of persons or property for hire by the
21 lessee or rentee; and

22 ~~(73)~~~~((66))~~ "U-Drive-It certificate" means a certificate granting authority for the operation
23 of one (1) or more U-Drive-Its.

24 ➔Section 10. KRS 281.630 is amended to read as follows:

25 (1) A person shall not act as a motor carrier without first obtaining a certificate from
26 the department.

27 (2) A certificate for the intrastate transportation of passengers or property, including

household goods, shall be issued to any qualified applicant authorizing operation covered by the application, if it is found that the applicant conforms to the provisions of this chapter and the requirements of the administrative regulations promulgated in accordance with this section.

(3) (a) The department shall issue the following certificates:

1. Taxicab certificate;
2. Limousine certificate;
3. Disabled persons vehicle certificate;
4. Transportation network company certificate;
5. Household goods certificate;
6. Charter bus certificate;
7. Bus certificate;
8. U-Drive-It certificate;
9. Property certificate;
10. Driveaway certificate; ~~and~~

11. Peer-to-peer car sharing certificate; and

12. ~~11.~~ Automobile utility trailer certificate.

(b) Application for a certificate shall be made in such form as the department may require. The department shall receive an application fee of two hundred fifty dollars (\$250) for all applications, except that the department shall receive an application fee of twenty-five dollars (\$25) for a property certificate.

(c) Before the department may issue a certificate, an applicant shall:

1. Pay the application fee established under paragraph (b) of this subsection;
2. For entities other than TNCs **and peer-to-peer car sharing companies,** file a motor carrier vehicle license application for each motor carrier vehicle as required by KRS 281.631. The applicant shall file at least one

- 1 (1) motor carrier vehicle license application before being eligible for a
2 certificate;
- 3 3. For TNCs, file a TNC authority application with the department
4 pursuant to administrative regulations promulgated by the department;
- 5 4. *For peer-to-peer car sharing companies, file a peer-to-peer car*
6 *sharing certificate application with the department pursuant to*
7 *administrative regulations promulgated by the department;*
- 8 5. File with the department one (1) or more approved indemnifying bonds
9 or insurance policies as required by KRS 281.655;
- 10 6.~~[5.]~~ For taxicab, limousine, disabled persons vehicle, TNC, household
11 goods, charter bus, and bus certificates, obtain and retain for a period of
12 at least three (3) years, a nationwide criminal background check, in
13 compliance with KRS 281.6301, of each owner, official, employee,
14 independent contractor, or agent operating a passenger vehicle or
15 household goods vehicle or entering a private residence or storage
16 facility for the purpose of providing or facilitating the transportation of
17 household goods;
- 18 7.~~[6.]~~ For household goods certificates, file with the department a current
19 tariff; and
- 20 8.~~[7.]~~ For a bus certificate, file with the department authorization from a city
21 as required by KRS 281.635.
- 22 (4) (a) Every certificate shall be renewed annually. Application for renewal shall be
23 in such form as the department may require.
- 24 (b) A certificate not renewed within one (1) calendar year after the date for its
25 renewal shall become null and void.
- 26 (c) The department shall not renew any certificate if it has been revoked or, if
27 suspended, during the period of any suspension. A certificate shall not be

1 considered revoked or suspended when an appeal of the revocation or
2 suspension is pending in a court of competent jurisdiction.

3 (d) For the renewal of an intrastate certificate, the department shall receive a fee
4 of two hundred fifty dollars (\$250), except for an application for renewal of a
5 property certificate, for which the department shall receive a fee of twenty-
6 five dollars (\$25).

7 (e) Before the department may renew a certificate, the certificate holder shall:

8 1. Pay the renewal fee established under paragraph (d) of this subsection;

9 2. For the entities other than TNCs and peer-to-peer car sharing
10 companies, file a motor carrier vehicle license application or renewal for
11 each motor carrier vehicle as required by KRS 281.631. The certificate
12 holder shall file at least one (1) motor carrier vehicle license application
13 or renewal before being eligible for renewal;

14 3. For TNCs, file a TNC authority application with the department
15 pursuant to administrative regulations promulgated by the department;

16 4. For peer-to-peer car sharing companies, file a peer-to-peer car
17 sharing certificate application with the department pursuant to
18 administrative regulations promulgated by the department;

19 5. File with the department one (1) or more approved indemnifying bonds
20 or insurance policies as required by KRS 281.655;

21 6.~~5.~~ Every three (3) years, for taxicab, limousine, disabled persons vehicle,
22 TNC, household goods, charter bus, and bus certificates, obtain and
23 retain for a period of at least three (3) years, a nationwide criminal
24 background check in compliance with KRS 281.6301, of each owner,
25 official, employee, independent contractor, or agent operating a
26 passenger vehicle or entering a private residence or storage facility for
27 the purpose of providing or facilitating the transportation of household

1 goods. However, within the three (3) year period:

2 a. If a new owner, official, employee, independent contractor, or
3 agent joins the certificate holder and performs the aforementioned
4 duties; or

5 b. If the certificate holder has knowledge that a current owner,
6 official, employee, independent contractor, or agent who performs
7 the aforementioned duties has been convicted of or pled guilty to
8 any of the offenses listed in KRS 281.6301(2);

9 then the certificate holder shall obtain and retain for a period of at least
10 three (3) years, a nationwide criminal background check for that owner,
11 official, employee, independent contractor, or agent; and

12 ~~7.16.1~~ For household goods certificates, have on file with the department a
13 current tariff.

14 (5) (a) A motor carrier operating under a household goods certificate shall, at all
15 times the certificate is in effect, maintain on file with the department a current
16 tariff.

17 (b) Except for a household goods certificate holder that has had only an out-of-
18 state address on file with the department prior to January 1, 2015, all
19 certificate holders shall maintain on file with the department an address within
20 the Commonwealth. The certificate holder shall keep open for public
21 inspection at that address such information as the department may require.

22 (c) The certificate holder shall not charge, demand, collect, or receive a greater,
23 less, or different compensation for the transportation of household goods or
24 for any service in connection therewith, than the tariff filed with the
25 department and in effect at the time would require. A certificate holder shall
26 not make or give any unreasonable preference or advantage to any person, or
27 subject any person to any unreasonable discrimination.

- 1 (6) A certificate shall not be transferred unless the transfer involves either the change of
2 the legal name of the existing certificate holder or the incorporation of a sole
3 proprietor certificate holder.
- 4 (7) A certificate authorizing a person to act as an automobile utility trailer lessor shall
5 also authorize the agents of the person to act on his or her behalf during the period
6 of their agency.
- 7 (8) A motor carrier vehicle shall not be operated after the expiration of the certificate
8 under which it is operated.
- 9 (9) A person shall not knowingly employ the services of a motor carrier not authorized
10 to perform such services.
- 11 (10) If the department, after a hearing held upon its own motion or upon complaint, finds
12 any existing rate unjustly discriminatory, or finds the services rendered or facilities
13 employed by any motor carrier to be unsafe, inadequate, inconvenient, or in
14 violation of law or of the administrative regulations of the department, it may by
15 final order do any or all of the following:
- 16 (a) Require the certificate holder to follow any rate or time schedule in effect at
17 the time of service;
- 18 (b) Require the certificate holder to issue a refund to the complainant;
- 19 (c) Require the certificate holder to pay the fine set out in KRS 281.990 to the
20 department; and
- 21 (d) Determine the reasonable, safe, adequate, and convenient service to be
22 thereafter furnished.
- 23 (11) Hearings conducted under authority of this section shall be conducted in the same
24 manner as provided in KRS 281.640.
- 25 (12) The department shall have the power to promulgate administrative regulations as it
26 may deem necessary to carry out the provisions of this section.

27 ➔SECTION 11. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO

1 READ AS FOLLOWS:

2 (1) As used in this section:

3 (a) "Department" means the Kentucky Department of Revenue;

4 (b) "Gross receipts" means the total consideration received for the:

5 1. Rental of a vehicle, including the daily or hourly rental fee, fees
6 charged for using the services, charges for insurance protection plans,
7 fuel charges, pickup and delivery fees, late fees, and any charges for
8 any services necessary to complete the rental transaction made by a:

9 a. Peer-to-peer car sharing company; or

10 b. Motor vehicle rental company; and

11 2. Charges made to provide the service to a user, including any charges
12 for time or mileage, fees for using the services, and any charges for
13 any services necessary to complete the transaction made by a:

14 a. TNC;

15 b. Taxicab; or

16 c. Limousine service provider;

17 (c) The following terms have the same meaning as in Section 9 of this Act:

18 1. "Limousine";

19 2. "Peer-to-peer car sharing certificate";

20 3. "Peer-to-peer car sharing company";

21 4. "Peer-to-peer car sharing driver";

22 5. "Peer-to-peer car sharing program";

23 6. "Shared vehicle";

24 7. "Shared vehicle driver";

25 8. "Taxicab";

26 9. "Transportation network company" or "TNC";

27 10. "Transportation network company service" or "TNC service"; and

1 11. "U-Drive-It";

2 (d) "Motor vehicle rental company" has the same meaning as in KRS 281.687;

3 and

4 (e) "Person" means the holder of any of the following certificates in Section 10
5 of this Act:

6 1. Limousine;

7 2. Peer-to-peer car sharing;

8 3. Taxicab;

9 4. Transportation network; and

10 5. U-Drive-It.

11 (2) An excise tax is imposed upon every person for the privilege of providing a motor
12 vehicle for sharing or for rent, with or without a driver, within the
13 Commonwealth. The tax is imposed at the rate of six percent (6%) of the gross
14 receipts derived from the:

15 (a) Rental of a shared vehicle by a peer-to peer car sharing company;

16 (b) Rental of a vehicle by a motor vehicle renting company;

17 (c) Sales of TNC services;

18 (d) Sales of taxicab services; and

19 (e) Sales of limousine services.

20 (3) The tax imposed under subsection (2) of this section shall be administered and
21 collected by the department. Revenues generated from the tax shall be deposited
22 into the general fund.

23 (4) The tax imposed by subsection (2) of this section shall be the direct obligation of
24 the peer-to-peer car sharing company, the motor vehicle renting company, the
25 TNC, the taxicab service provider, and the limousine service provider, but it may
26 be charged to and collected from the user of the service. The tax shall be remitted
27 to the department each month on forms and pursuant to administrative

1 regulations promulgated by the department.

2 (5) (a) As soon as practicable after each return is received, the department shall
3 examine and audit the return. If the amount of taxes computed by the
4 department is greater than the amount returned by the person, the excess
5 shall be assessed by the department within four (4) years from the date the
6 return was filed, except as provided in paragraph (c) of this subsection, and
7 except that in the case of a failure to file a return or of a fraudulent return
8 the excess may be assessed at any time. A notice of such assessment shall be
9 mailed to the person.

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

13 (c) Notwithstanding the four (4) year time limitation of paragraph (a) of this
14 subsection, in the case of a return where the amount of taxes computed by
15 the department is greater by twenty-five percent (25%) or more than the
16 amount returned by the person, the excess shall be assessed by the
17 department within six (6) years from the date the return was filed.

18 (6) Failure to remit the taxes shall be sufficient cause for the Department of Vehicle
19 Regulation to void the certificate issued to a:

20 (a) Limousine certificate holder;

21 (b) Peer-to-peer car sharing certificate holder;

22 (c) Taxicab certificate holder;

23 (d) TNC certificate holder; or

24 (e) U-Drive-It certificate holder.

25 (7) If a person fails or refuses to file a return or furnish any information requested
26 in writing, the department may, from any information in its possession, make an
27 estimate of the certificate holder's total trip costs and issue an assessment against

1 the certificate holder based on the estimated trip cost charges and add a penalty
2 of ten percent (10%) of the amount of the assessment so determined. This penalty
3 shall be in addition to all other applicable penalties provided by law.

4 (8) If any person fails to make and file a return required by subsection (5) of this
5 section on or before the due date of the return, or if the taxes, or portion thereof,
6 is not paid on or before the date prescribed for its payment, then, unless it is
7 shown to the satisfaction of the department that the failure is due to a reasonable
8 cause, five percent (5%) of the taxes found to be due shall be added to the tax for
9 each thirty (30) days or fraction thereof elapsing between the due date of the
10 return and the date on which filed, but the total penalty shall not exceed twenty-
11 five percent (25%) of the tax; provided, however, that in no case shall the penalty
12 be less than ten dollars (\$10).

13 (9) If the tax imposed by subsection (2) of this section is not paid on or before the
14 date prescribed for its payment, there shall be collected, as a part of the tax,
15 interest upon the unpaid amount at the tax interest rate as defined in KRS
16 131.010(6) from the date prescribed for its payment until payment is actually
17 made.

18 (10) Notwithstanding any other provisions of this chapter to the contrary, the
19 president, vice president, secretary, treasurer, or any other person holding any
20 equivalent corporate office of any corporation subject to the provisions of this
21 chapter shall be personally and individually liable, both jointly and severally, for
22 the taxes imposed under this chapter, and neither the corporate dissolution nor
23 withdrawal of the corporation from the state nor the cessation of holding any
24 corporate office shall discharge the foregoing liability of any person. The
25 personal and individual liability shall apply to each and every person holding the
26 corporate office at the time the taxes become or became due. No person will be
27 personally and individually liable pursuant to this section who had no authority

1 in the management of the business or financial affairs of the corporation at the
2 time that the taxes imposed by this chapter become or became due. Taxes as used
3 in this section shall include interest accrued at the rate provided by KRS 139.650
4 and all applicable penalties imposed under this chapter and all applicable
5 penalties and fees imposed under KRS 131.180, 131.410 to 131.445, and 131.990.
6 (11) Notwithstanding any other provisions of this chapter, KRS 275.150, 362.1-306(3)
7 or predecessor law, or 362.2-404(3) to the contrary, the managers of a limited
8 liability company, the partners of a limited liability partnership, and the general
9 partners of a limited liability limited partnership, or any other person holding any
10 equivalent office of a limited liability company, limited liability partnership, or
11 limited liability limited partnership subject to the provisions of this chapter, shall
12 be personally and individually liable, both jointly and severally, for the taxes
13 imposed under this chapter. Dissolution, withdrawal of the limited liability
14 company, limited liability partnership, or limited liability limited partnership
15 from the state, or the cessation of holding any office shall not discharge the
16 liability of any person. The personal and individual liability shall apply to each
17 and every manager of a limited liability company, partner of a limited liability
18 partnership, and general partner of a limited liability limited partnership at the
19 time the taxes become or became due. No person shall be personally and
20 individually liable under this subsection who had no authority to collect,
21 truthfully account for, or pay over any tax imposed by this chapter at the time
22 that the taxes imposed by this chapter become or became due. "Taxes" as used in
23 this section shall include interest accrued at the rate provided by KRS 131.183, all
24 applicable penalties imposed under this chapter, and all applicable penalties and
25 fees imposed under KRS 131.180, 131.410 to 131.445, and 131.990.
26 (12) Any person who violates any of the provisions of this section shall be subject to
27 the uniform civil penalties imposed pursuant to KRS 131.180.

1 ➔ Section 12. KRS 138.462 is amended to read as follows:

2 As used in KRS 138.463 and 138.4631, unless the context requires otherwise:

3 (1) "Cabinet" means the Transportation Cabinet;

4 (2) "Rent" and "rental" means a contract, other than a peer-to-peer car sharing
5 program agreement as defined in Section 9 of this Act, supported by a
6 consideration, for the use of a motor vehicle for a period of less than three hundred
7 sixty-five (365) days;

8 (3) "Lease" and "leasing" means a contract, other than a peer-to-peer car sharing
9 program agreement as defined in Section 9 of this Act, supported by a
10 consideration, for the use of a motor vehicle for a period of three hundred sixty-five
11 (365) days or more; and

12 (4) "Gross rental charge" means the amount paid by a customer for time and
13 mileage only.

14 ➔ SECTION 13. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO
15 READ AS FOLLOWS:

16 Excluded from the additional taxable services imposed by subsection (2)(q) to (bb) of
17 Section 3 of this Act are gross receipts derived from:

18 (1) Sales of the services in fulfillment of a lump-sum, fixed-fee contract or a fixed
19 price sales contract executed on or before February 25, 2022; and

20 (2) A lease or rental agreement entered into on or before February 25, 2022.

21 ➔ SECTION 14. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO
22 BE NUMBERED AS KRS 91A.345 AND TO READ AS FOLLOWS:

23 As used in KRS 91A.345 to 91A.394:

24 (1) "Person" has the same meaning as in KRS 139.010; and

25 (2) "Rent " means the total amount charged for the rental of an accommodation and
26 any charges for any services necessary to facilitate the rental of accommodations
27 whether the amount is charged by the provider of the accommodations or by a

person facilitating the rental of the accommodations by brokering, coordinating, or in any way arranging for the rental of the accommodations.

➔Section 15. KRS 91A.360 is amended to read as follows:

(1) The commission established pursuant to KRS 91A.350(2) shall be composed of seven (7) members to be appointed, in accordance with the method used to establish the commission. Members of a commission established by joint action of the local governing bodies of a county and a city or cities located therein shall be appointed, jointly, by the chief executive officers of the local governing bodies that established the commission. Members of a commission established by separate action of the local governing body of a county or a city located therein shall be appointed separately by the chief executive officer of the local governing body that established the commission. The chief executive officer of a city shall mean the mayor and the chief executive officer of a county shall mean the county judge/executive. Appointments to a commission shall be made by the appropriate chief executive officer or officers in the following manner:

(a) Two (2) commissioners shall be appointed from a list of three (3) or more names submitted by the local city hotel and motel association and one (1) commissioner shall be appointed from a list of three (3) or more names submitted by the local county hotel and motel association, provided that if only one (1) local hotel and motel association exists which covers both the city and county, then three (3) commissioners shall be appointed from a list of six (6) or more names submitted by it. If no formal local city or county hotel and motel association is in existence upon the establishment of a commission or upon the expiration of the term of a commissioner appointed pursuant to this subsection, then up to three (3) commissioners shall be appointed by the appropriate chief executive officer or officers from persons residing within the jurisdiction of the commission and representing local hotels or motels. A local

1 city or county hotel and motel association shall not be required to be affiliated
2 with the Kentucky Hotel and Motel Association to be recognized as the
3 official local city or county hotel and motel association.

4 (b) One (1) commissioner shall be appointed from a list of three (3) or more
5 names submitted by the local restaurant association or associations. If no
6 formal local restaurant association or associations exist upon the
7 establishment of a commission or upon the expiration of the term of a
8 commissioner appointed pursuant to this subsection, then one (1)
9 commissioner shall be appointed by the appropriate chief executive officer or
10 officers from persons residing within the jurisdiction of the commission and
11 representing a local restaurant. A local restaurant association or associations
12 shall not be required to be affiliated with the Kentucky Restaurant Association
13 to be recognized as the official local restaurant association or associations.

14 (c) One (1) commissioner shall be appointed from a list of three (3) or more
15 names submitted by the chamber or chambers of commerce existing within
16 those governmental units, which by joint or separate action have established
17 the commission. If the commission is established by joint action of a county
18 and a city or cities, then each chamber of commerce shall submit a list of three
19 (3) names, and the chief executive officers of the participating governmental
20 units shall jointly appoint one (1) commission member from the aggregate list.
21 If no local chamber of commerce is in existence upon the establishment of a
22 commission or upon the expiration of the term of a commissioner appointed
23 pursuant to this subsection, then one (1) commissioner shall be appointed by
24 the appropriate chief executive officer or officers from persons residing within
25 the jurisdiction of the commission and representing local businesses.

26 (d) Two (2) commissioners shall be appointed in the following manner:

27 1. By the chief executive officer of the county or city, if the commission

- 1 has been established by separate action of a county or city; or
- 2 2. One (1) each by the chief executive officer of the county and by the chief
- 3 executive officer of the most populous city participating in the
- 4 establishment of the commission, if the commission has been
- 5 established by joint action of a county and a city or cities.
- 6 (2) A candidate submitted for appointment to the commission, pursuant to subsection
- 7 (1)(a) to (1)(c), shall be appointed by the appropriate chief executive officer or
- 8 officers within thirty (30) days of the receipt of the required list or lists. Vacancies
- 9 shall be filled in the same manner that original appointments are made.
- 10 (3) The commissioners shall be appointed for terms of three (3) years, provided, that in
- 11 making the initial appointments, the appropriate chief executive officer or officers
- 12 shall appoint two (2) commissioners for a term of three (3) years, two (2)
- 13 commissioners for a term of two (2) years and three (3) commissioners for a term of
- 14 one (1) year. There shall be no limitation on the number of terms to which a
- 15 commissioner is reappointed. Subsequent appointments shall be for three (3) year
- 16 terms.
- 17 (4) The commission shall elect from its membership a chairman and a treasurer, and
- 18 may employ personnel and make contracts necessary to carry out the purpose of
- 19 KRS 91A.345 to 91A.394~~[91A.350 to 91A.390]~~. The contracts may include, but
- 20 shall not be limited to, the procurement of promotional services, advertising
- 21 services, and other services and materials relating to the promotion of tourist and
- 22 convention business. Contracts of the type enumerated shall be made only with
- 23 persons, organizations, and firms with experience and qualifications for providing
- 24 promotional services and materials, such as advertising firms, chambers of
- 25 commerce, publishers, and printers.
- 26 (5) The books of the commission and its account as established in KRS 91A.390(2)
- 27 shall be audited as provided in KRS 65A.030. The independent certified public

1 accountant or Auditor of Public Accounts shall make a report to the commission, to
2 the associations submitting lists of names from which commission members are
3 selected, to the appropriate chief executive officer or officers, to the State Auditor
4 of Public Accounts, and to the local governing body or bodies that established the
5 commission that was audited. A copy of the audit report shall be made available by
6 the commission to members of the public upon request and at no charge.

7 (6) A commissioner may be removed from office, by joint or separate action, of the
8 appropriate chief executive officer or officers of the local governing body or bodies
9 that established the commission, as provided by KRS 65.007.

10 (7) The commission shall comply with the provisions of KRS 65A.010 to 65A.090.

11 ➔Section 16. KRS 91A.370 is amended to read as follows:

12 (1) Except in a county containing a consolidated local government, the commission
13 established pursuant to KRS 91A.350(1) shall be composed of nine (9) members to
14 be appointed by the mayor of the largest city in the county, the county
15 judge/executive and the Governor of the Commonwealth.

16 (2) Except in a county containing a consolidated local government, the mayor of the
17 largest city in the county shall appoint three (3) commissioners in the following
18 manner:

19 (a) One (1) commissioner from a list submitted by the local city hotel and motel
20 association;

21 (b) One (1) commissioner from a list submitted by the chamber of commerce of
22 the largest city in the county; and

23 (c) One (1) commissioner from a list submitted by the local restaurant association
24 or associations.

25 (3) Except in a county containing a consolidated local government, the county
26 judge/executive shall, with the approval of the fiscal court, appoint three (3)
27 commissioners in the following manner:

- 1 (a) One (1) commissioner from a list submitted by the local county hotel and
2 motel association, provided that if only one (1) local hotel and motel
3 association exists which covers both the city and county, then the local hotel
4 and motel association shall submit a list to the county judge/executive;
- 5 (b) One (1) commissioner from a list submitted by the board of directors of the
6 largest incorporated Thoroughbred horse racing concern in the county, which
7 list shall contain only directors, officers, or employees of that corporation; and
- 8 (c) One (1) commissioner who is a resident of the county and who has an active
9 interest in the convention and tourist industry.
- 10 (4) Except in a county containing a consolidated local government, the Governor shall
11 appoint three (3) commissioners in the following manner:
- 12 (a) One (1) commissioner from a list submitted by the State Fair Board;
- 13 (b) One (1) commissioner from a list submitted by the local countywide air board;
14 and
- 15 (c) One (1) commissioner shall be appointed, in those counties not containing a
16 consolidated local government, who is a resident of the county. In those
17 counties containing a consolidated local government, one (1) commissioner
18 shall be appointed who is a resident of the area comprising the consolidated
19 local government.
- 20 (5) Vacancies shall be filled in the manner that original appointments are made.
- 21 (6) When a list as provided in subsections (2) and (3) of this section contains less than
22 three (3) names or when a selection from such list is not made, the appointing
23 authority shall request in writing the submission of a new list of names.
- 24 (7) Except in a county containing a consolidated local government, the commissioners
25 shall be appointed for a term of three (3) years, provided that in making the initial
26 appointments, the mayor, county judge/executive, and Governor of the
27 Commonwealth shall each appoint one (1) commissioner for a term of one (1) year,

- 1 one (1) commissioner for a term of two (2) years, and one (1) commissioner for a
2 term of three (3) years.
- 3 (8) Upon the establishment of a consolidated local government in a county where a city
4 of the first class and a county containing such city have had in effect a cooperative
5 compact pursuant to KRS 79.310 to 79.330, the commission shall have nine (9)
6 members. Six (6) members of the commission shall be appointed by the mayor of
7 the consolidated local government pursuant to the provisions of KRS 67C.139 for a
8 term of three (3) years. The Governor of the Commonwealth shall appoint three (3)
9 members of the commission for a term of three (3) years. Incumbent members upon
10 the establishment of the consolidated local government shall continue to serve as
11 members of the board for the time remaining of their current term of appointment.
- 12 (9) The commission shall elect from its membership a chairman and a treasurer, and
13 may employ such personnel and make such contracts as are necessary to effectively
14 carry out the purposes of KRS 91A.345 to 91A.390~~[91A.350 to 91A.390]~~. Such
15 contracts may include but shall not be limited to the procurement of promotional
16 services, advertising services, and other services and materials relating to the
17 promotion of tourist and convention business; provided, contracts of the type
18 enumerated shall be made only with persons, organizations, and firms with
19 experience and qualifications for providing promotional services and materials such
20 as advertising firms, chambers of commerce, publishers, and printers.
- 21 (10) The books of the commission shall be audited by an independent auditor who shall
22 make a report to the commission, to the organizations submitting names from which
23 commission members are selected, and to the mayor of a city or a consolidated local
24 government, the county judge/executive in counties not containing a consolidated
25 local government, and the Governor of the Commonwealth.
- 26 (11) Commission members appointed by the Governor shall serve at the pleasure of the
27 Governor. Commission members appointed by the mayor of a city or a consolidated

1 local government or the county judge/executive may be removed as provided by
2 KRS 65.007.

3 (12) The commission shall comply with the provisions of KRS 65A.010 to 65A.090.

4 ➔Section 17. KRS 91A.372 is amended to read as follows:

5 (1) The commission established pursuant to KRS 91A.350(2) by an urban-county
6 government shall be composed of nine (9) members appointed by the mayor of the
7 urban-county government in the following manner:

8 (a) Three (3) commissioners from a list submitted by the local hotel and motel
9 association.

10 (b) One (1) commissioner from a list submitted by the local restaurant association
11 or associations.

12 (c) One (1) commissioner from a list submitted by the local chamber of
13 commerce.

14 (d) Four (4) commissioners who shall be residents of the urban-county.

15 (2) Vacancies shall be filled in the same manner that original appointments are made.

16 (3) The commissioners shall be appointed for terms of three (3) years, provided, that in
17 making the initial appointments, the chief elective official of the urban-county shall
18 appoint three (3) commissioners for a term of three (3) years, three (3)
19 commissioners for a term of two (2) years and three (3) commissioners for a term of
20 one (1) year.

21 (4) The commission shall elect from its membership a chairman and a treasurer, and
22 may employ such personnel and make such contracts as are necessary to effectively
23 carry out the purpose of KRS 91A.345 to 91A.394~~[91A.350 to 91A.390]~~. Such
24 contracts may include but shall not be limited to the procurement of promotional
25 services, advertising services and other services and materials relating to the
26 promotion of tourist and convention business; provided, contracts of the type
27 enumerated shall be made only with persons, organizations, and firms with

1 experience and qualifications for providing promotional services and materials,
2 such as event coordinators, advertising firms, chambers of commerce, publishers
3 and printers.

4 (5) The books of the commission shall be audited as provided in KRS 65A.030. The
5 independent certified public accountant or Auditor of Public Accounts shall make a
6 report to the commission, to the organizations submitting names from which
7 commission members are selected, and to the mayor of the urban-county
8 government.

9 (6) The commission shall comply with the provisions of KRS 65A.010 to 65A.090.

10 ➔Section 18. KRS 91A.380 is amended to read as follows:

11 (1) The commission established pursuant to KRS 91A.350(3) shall be composed of six
12 (6) members from each county to be appointed by the county judge/executive, with
13 the approval of the fiscal court in the following manner:

14 (a) Two (2) commissioners with an accounting, finance, or business background,
15 one (1) of whom is a member of the local chamber of commerce;

16 (b) One (1) commissioner selected from the public at large;

17 (c) One (1) commissioner from the General Assembly;

18 (d) One (1) commissioner representing local restaurants; and

19 (e) One (1) commissioner representing local hotels and motels.

20 (2) Vacancies shall be filled in the same manner that original appointments are made.

21 (3) The commissioners shall be appointed for terms of three (3) years, provided that in
22 making the initial appointments, the county judge/executive shall appoint two (2)
23 commissioners for a term of three (3) years, two (2) commissioners for a term of
24 two (2) years, and two (2) commissioners for a term of one (1) year.

25 (4) The commission shall elect from its membership a chairman and a treasurer, and
26 may employ such personnel and make such contracts as are necessary to effectively
27 carry out the purpose of KRS 91A.345 to 91A.394~~[91A.350 to 91A.390]~~. Such

1 contracts may include but shall not be limited to the procurement of promotional
2 services, advertising services and other services and materials relating to the
3 promotion of tourist and convention business.

4 (5) The books of the commission and its account as established in KRS 91A.390(2)
5 shall be audited as provided in KRS 65A.030. The independent certified public
6 accountant or Auditor of Public Accounts shall make a report to the commission, to
7 the organizations submitting names from which commission members are selected,
8 and to the county judge/executive of each county. A copy of the audit report shall be
9 made available by the commission to members of the public upon request and at no
10 charge.

11 (6) A commissioner may be removed from office as provided by KRS 65.007.

12 (7) The commission shall comply with the provisions of KRS 65A.010 to 65A.090.

13 ➔Section 19. KRS 91A.390 is amended to read as follows:

14 (1) (a) The commission shall annually submit to the local governing body or bodies
15 which established it a request for funds for the operation of the commission.

16 (b) The local governing body or bodies shall include the commission in the
17 annual budget and shall provide funds for the operation of the commission by
18 imposing a transient room tax on the rent for every occupancy of a suite,
19 room,~~[-or]~~ rooms, *cabins, lodgings, campsites, or other accommodations*
20 charged by *any hotel, motel, inn, tourist camp, tourist cabin, campgrounds,*
21 *recreational vehicle parks, or any other place in which accommodations are*
22 *regularly furnished to transients for consideration or by any person that*
23 *facilitates the rental of the accommodations by brokering, coordinating, or*
24 *in any other way arranging for the rental of the accommodations*~~[all~~
25 ~~persons, companies, corporations, or other like or similar persons, groups, or~~
26 ~~organizations doing business as motor courts, motels, hotels, inns, or like or~~
27 ~~similar accommodations businesses]~~ as follows:

- 1 1. For a local governing body or bodies, other than an urban-county
2 government, the tax rate shall not exceed three percent (3%); and
- 3 2. For an urban-county government, the tax rate shall not exceed four
4 percent (4%).

5 (c) In addition to the three percent (3%) levy authorized by paragraph (b)1. of this
6 subsection, the local governing body other than an urban-county government
7 may impose a special transient room tax not to exceed one percent (1%) for
8 the purposes of:

- 9 1. Meeting the operating expenses of a convention center; and
- 10 2. In the case of a consolidated local government, financing the renovation
11 or expansion of a convention center that is government-owned and
12 located in the central business district of the consolidated local
13 government, except that if a consolidated local government imposes the
14 special transient room tax authorized under this paragraph on or after
15 August 1, 2014, revenue derived from the levy shall not be used to meet
16 the operating expenses of a convention center until any debt issued for
17 financing the renovation or expansion of a government-owned
18 convention center located in the central business district of the
19 consolidated local government is retired.

20 (d) Transient room taxes shall not apply to rooms, lodgings, campsites, or
21 accommodations supplied for a continuous period~~[the rental or leasing of an~~
22 ~~apartment supplied by an individual or business that regularly holds itself out~~
23 ~~as exclusively providing apartments. Apartment means a room or set of~~
24 ~~rooms, in an apartment building, fitted especially with a kitchen and usually~~
25 ~~leased as a dwelling for a minimum period]~~ of thirty (30) days or more to a
26 person.

27 (e) The local governing body or bodies that have established a commission by

1 joint or separate action shall enact an ordinance for the enforcement of the tax
2 measure enacted pursuant to this section and the collection of the proceeds of
3 this tax measure on a monthly basis.

4 (2) All moneys collected pursuant to this section and KRS 91A.400 shall be maintained
5 in an account separate and unique from all other funds and revenues collected, and
6 shall be considered tax revenue for the purposes of KRS 68.100 and KRS 92.330.

7 (3) A portion of the money collected from the imposition of this tax, as determined by
8 the tax levying body, upon the advice and consent of the tourist and convention
9 commission, may be used to finance the cost of acquisition, construction, operation,
10 and maintenance of facilities useful in the attraction and promotion of tourist and
11 convention business, including projects described in KRS 154.30-050(2)(a). The
12 balance of the money collected from the imposition of this tax shall be used for the
13 purposes set forth in KRS 91A.350. Proceeds of the tax shall not be used as a
14 subsidy in any form to any hotel, motel, inn, motor court, tourist camp, tourist
15 cabin, campgrounds, recreational vehicle parks, or any other person furnishing
16 accommodations, or restaurant, except as provided in KRS 154.30-050(2)(a)3.c.
17 Money not expended by the commission during any fiscal year shall be used to
18 make up a part of the commission's budget for its next fiscal year.

19 (4) A county with a city of the first class may impose an additional tax, not to exceed
20 one and one-half percent (1.5%) of the ~~room~~ rent. This additional tax, if approved
21 by the local governing body, shall be collected and administered in the same manner
22 as the ~~regular~~ tax authorized by subsection (1)(b) of this section and shall be used
23 for the purpose of funding additional promotion of tourist and convention business.

24 (5) An urban-county government may impose an additional tax, not to exceed one
25 percent (1%) of the ~~room~~ rents included in this subsection. This additional tax
26 shall be collected and administered in the same manner as the ~~regular~~ tax
27 authorized by subsection (1)(b) of this section with the exception that this

1 additional tax shall be used for the purpose of funding the purchase of development
2 rights program provided for under KRS 67A.845.

3 (6) Local governing bodies which have formed multicounty tourist and convention
4 commissions as provided by KRS 91A.350(3) may impose an additional tax, not to
5 exceed one percent (1%) of the ~~room~~ rents. This additional tax, if approved by
6 each governing body, shall be collected and administered in the same manner as the
7 ~~regular~~ tax **authorized by subsection (1)(b) of this section**, with the exception that
8 this additional tax shall be used for the purpose of funding regional efforts relating
9 to the promotion of tourist and convention business and convention centers. In no
10 event shall any revenues collected as provided for under KRS 91A.350(3) be
11 utilized for the construction, renovation, maintenance, or additions to any
12 convention center that is located outside the boundaries of the Commonwealth of
13 Kentucky.

14 (7) The commission, with the approval of the tax levying body, may borrow money to
15 pay its obligations that cannot be paid at maturity out of current revenue from the
16 transient room tax, but shall not borrow a sum greater than can be repaid out of the
17 revenue anticipated from the transient room tax during the year the money is
18 borrowed. The commission may pledge its securities for the repayment of any sum
19 borrowed.

20 (8) The fiscal court or legislative body of a consolidated local government or city
21 establishing a commission pursuant to KRS 91A.350(1) or (2) and, in its own name,
22 a commission established pursuant to of KRS 91A.350(1) is authorized and
23 empowered to issue revenue bonds pursuant to KRS Chapter 58 for public projects.
24 Bonds issued for the purposes of KRS **91A.345 to 91A.394**~~[91A.350 to 91A.390]~~,
25 may be used to pay any cost for the acquisition of real estate, the construction of
26 buildings and appurtenances, the preparation of plans and specifications, and legal
27 and other services incidental to the project or to the issuance of the bonds. The

1 payment of the bonds, with interest, may be secured by a pledge of and a first lien
2 on all of the receipts and revenue derived, or to be derived, from the rental or
3 operation of the property involved. Bond and interest obligations issued pursuant to
4 this section shall not constitute an indebtedness of the county, consolidated local
5 government, or city. All bonds sold under the authority of this section shall be
6 subject to competitive bidding as provided by law, and shall bear interest at a rate
7 not to exceed that established for bonds issued for public projects under KRS
8 Chapter 58.

9 (9) A commission established pursuant to KRS 91A.350(3) is authorized and
10 empowered to issue revenue bonds in its own name, payable solely from its income
11 and revenue, pursuant to KRS Chapter 58 for revenue bonds for public projects.
12 Bonds issued for the purposes of KRS 91A.345 to 91A.394~~[91A.350 to 91A.390]~~,
13 may be used to pay any cost for the acquisition of real estate, the construction of
14 buildings and appurtenances, the preparation of plans and specifications, and legal
15 and other services incidental to the project or to the issuance of the bonds. The
16 payment of the bonds, with interest, may be secured by a pledge of and a first lien
17 on all of the receipts and revenue derived, or to be derived, from the rental or
18 operation of the property involved. Bond and interest obligations issued pursuant to
19 this section shall not constitute an indebtedness of the county. All bonds sold
20 pursuant to this section shall be subject to competitive bidding as provided by law,
21 and shall not bear interest at rates exceeding those for bonds issued for public
22 projects under KRS Chapter 58.

23 ➔Section 20. KRS 91A.392 is amended to read as follows:

24 (1) In addition to the three percent (3%) transient room tax authorized by KRS
25 91A.390(1)(b), and the one percent (1%) transient room tax authorized by KRS
26 153.440, a consolidated local government, or the fiscal court in a county containing
27 an authorized city, except those counties that are included in a multicounty tourist

1 and convention commission under KRS 91A.350, may levy an additional transient
2 room tax not to exceed two percent (2%) of the rent for every occupancy of a suite,
3 room, ~~{or} rooms,~~ cabin, lodgings, campsites or other accommodations charged by
4 any hotel, motel, inn, tourist camp, tourist cabin, campgrounds, recreational
5 vehicle parks, or other place in which accommodations are regularly furnished to
6 transients for a consideration or by any person that facilitates the rental of the
7 accommodations by brokering, coordinating, or in any other way arranging for
8 the rental of the accommodations for consideration~~[all persons, companies,~~
9 ~~corporations, or other similar persons, groups, or organizations doing business as~~
10 ~~motor courts, motels, hotels, inns, or similar accommodations businesses].~~

11 (2) The taxes imposed under this section shall not apply to rooms, lodgings,
12 campsites, or accommodations supplied for a continuous period of thirty (30)
13 days or more to a person.

14 (3) (a) Except as otherwise provided in paragraph (b) of this subsection, all money
15 collected from the tax authorized by this section shall be applied toward the
16 retirement of bonds issued pursuant to KRS 91A.390(8) to finance in part the
17 expansion or construction or operation of a governmental or nonprofit
18 convention center or fine arts center useful to the promotion of tourism
19 located in the central business district of the consolidated local government or
20 the authorized city located in the county.

21 (b) 1. This paragraph shall apply to the tax levied pursuant to this section,
22 prior to July 1, 2015, by a fiscal court of a county having a population
23 between seventy-five thousand (75,000) and one hundred thousand
24 (100,000) based on the 2010 federal decennial census.

25 2. When, in any fiscal year, the money collected from the tax authorized by
26 this section exceeds the amount required to satisfy the annual debt
27 service for the bond for that fiscal year, all or a portion of the excess

1 amount collected for that fiscal year may be used to defray the costs to
2 operate, renovate, or expand the governmental or nonprofit convention
3 center or fine arts center described in paragraph (a) of this subsection, if
4 an amount equal to one (1) year's required debt service is held in reserve
5 to satisfy any future debt service obligations of the bond.

6 ~~(4)~~~~(3)~~ After the retirement of the bonds provided for in this section, the additional
7 transient room tax levied pursuant to this section shall be void, and the consolidated
8 local government or fiscal court shall take action to repeal the ordinance which
9 levied the tax.

10 ~~(5)~~~~(4)~~ As used in this section, "authorized city" means a city of the first class and a
11 city included on the registry maintained by the Department for Local Government
12 under subsection ~~(6)~~~~(5)~~ of this section.

13 ~~(6)~~~~(5)~~ On or before January 1, 2015, the Department for Local Government shall
14 create and maintain a registry of cities that, as of August 1, 2014, were classified as
15 cities of the second class. The Department for Local Government shall make the
16 information included on the registry available to the public by publishing it on its
17 Web site.

18 ➔Section 21. KRS 91A.394 is amended to read as follows:

19 Any resident of the county may bring an action in the Circuit Court to enforce the
20 provisions of KRS 91A.345 to 91A.394~~[91A.350 to 91A.390]~~. The Circuit Court shall
21 hear the action and, on a finding that the commission has violated the provisions of KRS
22 91A.345 to 91A.394~~[91A.350 to 91A.390]~~, shall order the commission to comply with
23 the provisions. The Circuit Court, in its discretion, may allow the prevailing party, other
24 than the commission, court costs, to be paid from the commission's account.

25 ➔Section 22. KRS 91A.400 is amended to read as follows:

26 (1) As used in this section, "authorized city" means a city on the registry maintained by
27 the Department for Local Government under subsection (2) of this section.

1 (2) On or before January 1, 2015, the Department for Local Government shall create
2 and maintain a registry of cities that, as of January 1, 2014, were classified as cities
3 of the fourth or fifth class. The Department for Local Government shall make the
4 information included on the registry available to the public by publishing it on its
5 Web site.

6 (3) In addition to the three percent (3%) transient room tax authorized by KRS 91A.390
7 (1)(b), the city legislative body in an authorized city may levy an additional
8 restaurant tax not to exceed three percent (3%) of the retail sales by all restaurants
9 doing business in the city. All moneys collected from the tax authorized by this
10 section shall be turned over to the tourist and convention commission established in
11 that city as provided by KRS 91A.345 to 91A.394~~[91A.350 to 91A.390]~~.

12 ➔Section 23. KRS 153.440 is amended to read as follows:

13 (1) As used in this section and Section 24 of this Act:

14 (a) "Person" has the same meaning as in Section 14 of this Act; and

15 (b) "Rent" has the same meaning as in Section 14 of this Act;

16 (2) In addition to the three percent (3%) transient room tax authorized by KRS
17 91A.390(1)(b), fiscal courts in counties containing cities of the first class or
18 consolidated local governments may levy an additional transient room tax not to
19 exceed one percent (1%) of the rent for every occupancy of a suite, room,~~[-or]~~
20 rooms, *cabins, lodgings, campsites or other accommodations* charged by *any*
21 *hotel, motel, inn, tourist camp, tourist cabins, campgrounds, recreational vehicle*
22 *parks, or other place in which accommodations are regularly furnished to*
23 *transients for a consideration or by any person that facilitates the rental of the*
24 *accommodations by brokering, coordinating, or in any other way arranging for*
25 *the rental of the accommodations for consideration*~~[all persons, companies,~~
26 ~~corporations, or other like or similar persons, groups, or organizations doing~~
27 ~~business as motor courts, motels, hotels, inns, or like or similar accommodations]~~

1 businesses].

2 **(2) The tax imposed under this section shall not apply to rooms, lodgings, campsites,**
3 **or accommodations supplied for a continuous period of thirty (30) days or more**
4 **to a person.**

5 **(3)** All moneys collected from the tax authorized by this section shall be turned over to
6 the Kentucky Center for the Arts Corporation and shall be used to defray operating
7 costs of the Kentucky Center for the Arts.

8 ➔Section 24. KRS 153.450 is amended to read as follows:

9 (1) In addition to the four percent (4%) transient room tax authorized by KRS
10 91A.390**(1)(b)2.** an urban-county government may levy an additional transient room
11 tax not to exceed two percent (2%) of the rent for every occupancy of a suite,
12 room,~~or~~ rooms, **cabins, lodgings, campsites, or other accommodations** charged
13 by **any hotel, motel, inn, tourist camp, tourist cabin, campgrounds, recreational**
14 **vehicle parks, or other place in which accommodations are regularly furnished to**
15 **transients for a consideration or by any person that facilitates the rental of the**
16 **accommodations by brokering, coordinating, or in any other way arranging for**
17 **the rental of the accommodations for consideration**~~[all persons, companies,~~
18 ~~corporations, or other like or similar persons, groups, or organizations doing~~
19 ~~business as motor courts, motels, hotels, inns, or like or similar accommodations'~~
20 ~~businesses].~~

21 (2) All additional moneys collected from the tax authorized by subsection (1) of this
22 section shall be applied toward the retirement of bonds used to finance a nonprofit
23 corporation which is created for the funding, construction, and management of a
24 convention center in an urban-county, and to defray the operating costs of the
25 nonprofit corporation.

26 (3) (a) As used in this subsection, "project" means the renovation, expansion, or
27 improvement of a convention center on or after July 15, 2016.

1 (b) In addition to the levy authorized by subsection (1) of this section, an urban-
 2 county government may levy an additional transient room tax not to exceed
 3 two and one-half percent (2.5%) to provide funding for a project.

4 (c) Proceeds from the levy shall be used only for the direct expenditure for, or
 5 repayment of debt associated with, the project.

6 (d) The levy shall sunset upon completion of the project and repayment of all
 7 associated debt.

8 **(4) The taxes imposed under this section shall not apply to rooms, lodgings,**
 9 **campsites, or accommodations supplied for a continuous period of thirty (30)**
 10 **days or more to a person.**

11 ➔Section 25. KRS 142.400 is amended to read as follows:

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

13 **(a) "Person" has the same meaning as in Section 14 of this Act; and**

14 **(b) "Rent" has the same meaning as in Section 14 of this Act.**

15 **(2) A state-wide** transient room tax shall be imposed at a rate of one percent (1%) of the
 16 rent for every occupancy of any suite, room, rooms, ~~{or}~~ cabins, **lodgings,**
 17 **campsites, or other accommodations** charged by **any hotel, motel, inn, tourist**
 18 **camp, tourist cabin, campgrounds, recreational vehicle parks, or other place in**
 19 **which accommodations are regularly furnished to transients for a consideration**
 20 **or by any person that facilitates the rental of the accommodations by brokering,**
 21 **coordinating, or in any other way arranging for the rental of the**
 22 **accommodations for consideration**~~[all persons, companies, corporations, groups,~~
 23 ~~or organizations doing business as motor courts, motels, hotels, inns, tourist camps,~~
 24 ~~or like or similar accommodations businesses].~~

25 **(2)** As used in this subsection, rent shall not include any other local or state taxes paid
 26 by the person or entity renting the accommodations.

27 **(3)**~~[(2)]~~ The tax imposed by subsection (1) of this section shall not apply **to rooms,**

1 lodgings, campsites, or accommodations supplied~~[to the rental or lease of any~~
2 ~~room or set of rooms that is equipped with a kitchen, in an apartment building, and~~
3 ~~that is usually leased as a dwelling]~~ for a continuous period of thirty (30) days or
4 more to a person~~[by an individual or business that regularly holds itself out as~~
5 ~~exclusively providing apartments]~~.

6 ➔Section 26. KRS 65.060 is amended to read as follows:

7 As used in KRS 65.008, 65.009, 65.065 and 65.070, the term "district" shall mean and the
8 provisions of KRS 65.008, 65.009, 65.065 and 65.070 shall apply to any board,
9 commission, or special district created pursuant to the following statutes: KRS 39F.020,
10 39F.160; KRS 65.160, 65.162, 65.210 to 65.300, 65.510 to 65.650; KRS 74.010 to
11 74.415; KRS 75.010 to 75.260; KRS 76.005 to 76.210, 76.241 to 76.273, 76.274 to
12 76.279, 76.295 to 76.420, 76.600 to 76.640; KRS 77.005 to 77.305; KRS 80.262 to
13 80.610; KRS 91A.345 to 91A.394~~[91A.350 to 91A.390]~~; KRS 96A.010 to 96A.230; KRS
14 104.450 to 104.680; KRS 107.310 to 107.500; KRS 108.010 to 108.070, 108.080 to
15 108.180; KRS 109.056, 109.059, 109.115 to 109.190; KRS 147.610 to 147.705; KRS
16 147A.050 to 147A.120; KRS 154.50-301 to 154.50-346; KRS 164.605 to 164.675; KRS
17 173.450 to 173.650, 173.710 to 173.800; KRS 179.700 to 179.735; KRS 183.132 to
18 183.160; KRS 184.010 to 184.300; KRS 210.460 to 210.480; KRS 212.720 to 212.755;
19 KRS 216.310 to 216.360; KRS 220.010 to 220.613; KRS 262.100 to 262.660, 262.700 to
20 262.990; KRS 266.010 to 266.990; KRS 267.010 to 267.990; KRS 268.010 to 268.990;
21 or KRS 273.405 to 273.453.

22 ➔Section 27. KRS 45A.077 is amended to read as follows:

- 23 (1) A public-private partnership delivery method may be utilized as provided in this
24 section and administrative regulations promulgated thereunder. State contracts
25 using this method shall be awarded by competitive negotiation.
- 26 (2) A contracting body utilizing a public-private partnership shall continue to be
27 responsible for oversight of any function that is delegated to or otherwise performed

1 by a private partner.

2 (3) On or before December 31, 2016, the secretary of the Finance and Administration
3 Cabinet shall promulgate administrative regulations setting forth criteria to be used
4 in determining when a public-private partnership is to be used for a particular
5 project. The administrative regulations shall reflect the intent of the General
6 Assembly to promote and encourage the use of public-private partnerships in the
7 Commonwealth. The secretary shall consult with design-builders, construction
8 managers, contractors, design professionals including engineers and architects, and
9 other appropriate professionals during the development of these administrative
10 regulations.

11 (4) A request for proposal for a project utilizing a public-private partnership shall
12 include at a minimum:

- 13 (a) The parameters of the proposed public-private partnership agreement;
- 14 (b) The duties and responsibilities to be performed by the private partner or
15 partners;
- 16 (c) The methods of oversight to be employed by the contracting body;
- 17 (d) The duties and responsibilities that are to be performed by the contracting
18 body and any other partners to the contract;
- 19 (e) The evaluation factors and the relative weight of each to be used in the scoring
20 of awards;
- 21 (f) Plans for financing and operating the qualifying project and the revenues,
22 service payments, bond financings, and appropriations of public funds needed
23 for the qualifying project;
- 24 (g) Comprehensive documentation of the experience, capabilities, capitalization
25 and financial condition, and other relevant qualifications of the private entity;
- 26 (h) The ability of a private partner or partners to quickly respond to the needs
27 presented in the request for proposal, and the importance of economic

1 development opportunities represented by the qualifying project. In evaluating
2 proposals, preference shall be given to a plan that includes the involvement of
3 small businesses as subcontractors, to the extent that small businesses can
4 provide services in a competitive manner, unless any preference interferes
5 with the qualification for federal or other funds; and

6 (i) Other information required by the contracting body or the cabinet to evaluate
7 the proposals submitted by respondents and the overall proposed public-
8 private partnership.

9 (5) A private entity desiring to be a private partner shall demonstrate to the satisfaction
10 of the contracting body or the cabinet that it is capable of performing any duty,
11 responsibility, or function it may be authorized or directed to perform as part of the
12 public-private partnership agreement.

13 (6) When a request for proposal for a project utilizing a public-private partnership is
14 issued for a capital project, the contracting body shall transmit a copy of the request
15 for proposal to the Capital Projects and Bond Oversight Committee staff, clearly
16 identifying to the staff that a public-private partnership is being utilized. The
17 contracting body shall submit the final contract to the Capital Projects and Bond
18 Oversight Committee under KRS 45.763 before work may be begun on the project.

19 (7) A request for proposal or other solicitation may be canceled, or all proposals may be
20 rejected, if it is determined in writing that the action is taken in the best interest of
21 the Commonwealth and approved by the purchasing officer.

22 (8) (a) Beginning July 1, 2024~~2022~~, in the case of any public-private partnership for
23 a capital project with an aggregate value of twenty-five million dollars
24 (\$25,000,000) or more, the project shall be authorized by the General
25 Assembly, by inclusion in the branch budget bill or by any other means
26 specified by the General Assembly, explicitly identifying and authorizing the
27 utilization of a public-private partnership delivery method for the applicable

1 capital project. The authorization of a capital project required by this
2 subsection is in addition to any other statutorily required authorization for a
3 capital project.

4 (b) The provisions of this subsection shall not apply to any public-private
5 partnership project made public through a request for proposal or a public
6 notice of an unsolicited proposal issued prior to July 1, ~~2024~~~~[2022]~~.

7 (9) Any corporation as described by KRS 45.750(2)(c), or as created under the
8 Kentucky Revised Statutes as a governmental agency and instrumentality of the
9 Commonwealth, that manages its capital construction program shall:

10 (a) Adhere to the administrative regulations promulgated under this section when
11 utilizing a public-private partnership for financing capital projects;

12 (b) Report to legislative committees as specified in this section; and

13 (c) Submit public-private partnership agreements issued by it to the General
14 Assembly for authorization as provided in subsection (8) of this section.

15 (10) (a) The governing body of a postsecondary institution that manages its capital
16 construction program under KRS 164A.580 shall report to the Capital Projects
17 and Bond Oversight Committee staff as specified in this section.

18 (b) Any provision of a public-private partnership agreement issued by a
19 postsecondary institution which provides for a lease by or to the
20 postsecondary institution shall be valid and enforceable if approved by the
21 governing board of the institution.

22 (11) (a) A person or business may submit an unsolicited proposal to a governmental
23 body, which may receive the unsolicited proposal.

24 (b) Within ninety (90) days of receiving an unsolicited proposal, a governmental
25 body may elect to consider further action on the proposal, at which point the
26 governmental body shall provide public notice of the proposal. Discussion of
27 the project shall not be deemed a solicitation of the project or its concepts

1 after public notice is given. The public notice shall:

2 1. Provide specific information regarding the proposed nature, timing, and
3 scope of the unsolicited proposal, except that trade secrets, financial
4 records, or other records of the person or business making the proposal
5 shall not be posted unless otherwise agreed to by the governmental body
6 and the person or business; and

7 2. Provide for a notice period for the submission of competing proposals as
8 follows:

9 a. Unsolicited proposals valued below five million dollars
10 (\$5,000,000) shall be posted for thirty (30) days;

11 b. Unsolicited proposals valued between five million dollars
12 (\$5,000,000) and twenty-five million dollars (\$25,000,000) shall
13 be posted for sixty (60) days; and

14 c. Unsolicited proposals valued over twenty-five million dollars
15 (\$25,000,000) shall be posted for ninety (90) days.

16 (c) Upon the end of the notice period provided under paragraph (b)2. of this
17 subsection, the governmental body may consider the unsolicited proposal and
18 any competing proposals received. If the governmental body determines it is
19 in the best interest of the Commonwealth to implement some or all of the
20 concepts contained within the unsolicited proposal or competing proposals
21 received by it, the governmental body may begin an open, competitive
22 procurement process to do so pursuant to this chapter.

23 (d) An unsolicited proposal shall be deemed rejected if no written response is
24 received from the governmental body within ninety (90) days of submission,
25 during which time the governmental body has not taken any action on the
26 proposal under paragraph (b) of this subsection.

27 ➔Section 28. KRS 131.130 is amended to read as follows:

1 Without limitation of other duties assigned to it by law, the following powers and duties
2 are vested in the Department of Revenue:

3 (1) The department may promulgate administrative regulations, and direct proceedings
4 and actions, for the administration and enforcement of all tax laws of this state. To
5 assist taxpayers in understanding and interpreting the tax laws, the department may,
6 through incorporation by reference, include examples as part of any administrative
7 regulation. The examples may include demonstrative, nonexclusive lists of items if
8 the department determines the lists would be helpful to taxpayers in understanding
9 the application of the tax laws.

10 (2) The department, by representatives it appoints in writing, may take testimony or
11 depositions, and may examine hard copy or electronic records, any person's
12 documents, files, and equipment if those records, documents, or equipment will
13 furnish knowledge concerning any taxpayer's tax liability, when it deems this
14 reasonably necessary to the performance of its functions. The department may
15 enforce this right by application to the Circuit Court in the county where the person
16 is domiciled or has his or her principal office, or by application to the Franklin
17 Circuit Court, which courts may compel compliance with the orders of the
18 department.

19 (3) The department shall prescribe the style, and determine and enforce the use or
20 manner of keeping, of all assessment and tax forms and records employed by state
21 and county officials, and may prescribe forms necessary for the administration of
22 any revenue law.

23 (4) The department shall advise on all questions respecting the construction of state
24 revenue laws and its application to various classes of taxpayers and property.

25 (5) Attorneys employed by the Finance and Administration Cabinet and approved by
26 the Attorney General as provided in KRS 15.020 may prosecute all violations of the
27 criminal and penal laws relating to revenue and taxation. If a Finance and

1 Administration Cabinet attorney undertakes any of the actions prescribed in this
2 subsection, that attorney shall be authorized to exercise all powers and perform all
3 duties in respect to the criminal actions or proceedings which the prosecuting
4 attorney would otherwise perform or exercise, including the authority to sign, file,
5 and present any complaints, affidavits, information, presentments, accusations,
6 indictments, subpoenas, and processes of any kind, and to appear before all grand
7 juries, courts, or tribunals.

8 (6) In the event of the incapacity of attorneys employed by the Finance and
9 Administration Cabinet or at the request of the secretary of the Finance and
10 Administration Cabinet, the Attorney General or his or her designee shall prosecute
11 all violations of the criminal and penal laws relating to revenue and taxation. If the
12 Attorney General undertakes any of the actions prescribed in this subsection, he or
13 she shall be authorized to exercise all powers and perform all duties in respect to the
14 criminal actions or proceedings which the prosecuting attorney would otherwise
15 perform or exercise, including but not limited to the authority to sign, file, and
16 present any and all complaints, affidavits, information, presentments, accusations,
17 indictments, subpoenas, and processes of any kind, and to appear before all grand
18 juries, courts, or tribunals.

19 (7) The department may require the Commonwealth's attorneys and county attorneys to
20 prosecute actions and proceedings and perform other services incident to the
21 enforcement of laws assigned to the department for administration.

22 (8) Notwithstanding KRS Chapter 13A, the department may research the fields of
23 taxation, finance, and local government administration, publish its findings, respond
24 to the public's and taxpayers' questions, and publish its responses, as the
25 commissioner may deem wise. To assist taxpayers and the public in understanding
26 and interpreting the tax laws, the department may include examples as part of any
27 response or publication. The examples may include demonstrative, nonexclusive

1 lists of items, if the department determines that the list would be helpful to
2 taxpayers in understanding the application of the tax laws.

3 (9) The department may promulgate administrative regulations necessary to establish a
4 system of taxpayer identifying numbers for the purpose of securing proper
5 identification of taxpayers subject to any tax laws or other revenue measure of this
6 state, and may require the taxpayer to place on any return, report, statement, or other
7 document required to be filed, any number assigned pursuant to the administrative
8 regulations.

9 (10) The department may, when it is in the best interest of the Commonwealth and
10 helpful to the efficient and effective enforcement, administration, or collection of
11 sales and use tax, motor fuels tax, or the petroleum environmental assurance fee,
12 enter into agreements with out-of-state retailers or other persons for the collection
13 and remittance of sales and use tax, the motor fuels tax, or the petroleum
14 environmental assurance fee.

15 (11) The department may enter into annual memoranda of agreement with any state
16 agency, officer, board, commission, corporation, institution, cabinet, department, or
17 other state organization to assume the collection duties for any debts due the state
18 entity, except for consumer debt owed for health care goods and services, and may
19 renew that agreement for up to five (5) years. Under such an agreement, the
20 department shall have all the powers, rights, duties, and authority with respect to the
21 collection, refund, and administration of those liquidated debts as provided under:

22 (a) KRS Chapters 131, 134, and 135 for the collection, refund, and administration
23 of delinquent taxes; and

24 (b) Any applicable statutory provisions governing the state agency, officer, board,
25 commission, corporation, institution, cabinet, department, or other state
26 organization for the collection, refund, and administration of any liquidated
27 debts due the state entity.

(12) Notwithstanding subsection (11) of this section, KRS 45.237, 45.238, 45.241, or 131.030, or any agreement to the contrary, the department shall not collect or continue collection duties of any consumer debts owed for health care goods and services. For the purpose of this section, "consumer debt" shall be defined as a debt incurred by an individual, as defined in Section 41 of this Act, for a personal or family purpose, regardless of whether an obligation has been reduced to judgment.

(13) The department may refuse to accept a personal check in payment of taxes due or collected from any person who has ever tendered a check to the state which, when presented for payment, was not honored. Any check so refused shall be considered as never having been tendered.

➔SECTION 29. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Department" means the Kentucky Department of Revenue;

(b) "Distribute" means the delivery or transfer of electric power into the battery or other energy storage device of an electric vehicle at a location in this state;

(c) "Electric vehicle power" means electrical energy distributed into the battery or other energy storage device of an electric vehicle to be used to power the vehicle;

(d) "Electric vehicle power dealer" means a person who owns or leases an electric vehicle charging station;

(e) "Electric vehicle" has the same meaning as in Section 31 of this Act;

(f) "Electric vehicle charging station" or "charging station" means any place accessible to general public vehicular traffic where electric power may be used to charge a battery or other storage device of a licensed electric

1 vehicle; and

2 (g) "Person" has the same meaning as in Section 2 of this Act.

3 (2) On or after January 1, 2023, an excise tax with an initial base rate of three cents
4 (\$0.03) per kilowatt hour is imposed on electric vehicle power distributed in this
5 state by an electric vehicle power dealer for the purpose of charging electric
6 vehicles in this state.

7 (3) This tax shall be administered by the department.

8 (4) The tax shall be added to the selling price charged by the electric vehicle power
9 dealer at the charging station on electric vehicle power sold in this state.

10 (5) The tax imposed shall be paid by the electric vehicle power dealer to the State
11 Treasurer. The electric vehicle power dealer is liable for the electric vehicle power
12 tax.

13 (6) The tax collected under this section shall be transferred to the road fund, as
14 defined in KRS 48.010.

15 (7) Every electric vehicle power dealer shall, by the twenty-fifth day of each month,
16 transmit to the department reports on the forms the department may prescribe,
17 the total kilowatt hours distributed and the amount of tax collected. Payment of
18 the tax shall be due with the report.

19 (8) The electric vehicle power dealer shall keep and preserve an accurate record of
20 all receipts of electricity and tax together with invoices or other pertinent records
21 and papers required by the department for five (5) years.

22 (9) No dealer or other person shall fail or refuse to make the returns and pay the tax
23 prescribed by this section, or refuse to permit the department or its representatives
24 appointed by the commissioner of the department in writing to examine his or her
25 records, papers, files, and equipment pertaining to the taxable business. No
26 person shall make an incomplete, false, or fraudulent return, or do or attempt to
27 do anything to avoid a full disclosure of the amount of business done or to avoid

1 the payment of the whole or any part of the tax or penalties due. No person shall
2 fail to keep and preserve records of electric vehicle power distributed to make
3 reports as required by this section.

4 (10) Any person who violates any provision of this section shall be subject to the
5 uniform civil penalties imposed pursuant to KRS 131.180 and interest at the tax
6 interest rate as defined in KRS 131.010(6).

7 (11) Notwithstanding any other provisions of this chapter to the contrary, the
8 president, vice president, secretary, treasurer, or any other person holding any
9 equivalent corporate office of any corporation subject to the provisions of this
10 chapter shall be personally and individually liable, both jointly and severally, for
11 the taxes imposed under this chapter, and neither the corporate dissolution nor
12 withdrawal of the corporation from the state nor the cessation of holding any
13 corporate office shall discharge the foregoing liability of any person. The
14 personal and individual liability shall apply to each and every person holding the
15 corporate office at the time the taxes become or became due. No person will be
16 personally and individually liable pursuant to this section who had no authority
17 in the management of the business or financial affairs of the corporation at the
18 time that the taxes imposed by this chapter become or became due. Taxes as used
19 in this section shall include interest accrued at the rate provided by KRS 139.650
20 and all applicable penalties imposed under this chapter and all applicable
21 penalties and fees imposed under KRS 131.180, 131.410 to 131.445, and 131.990.

22 (12) Notwithstanding any other provisions of this chapter, KRS 275.150, 362.1-306(3)
23 or predecessor law, or 362.2-404(3) to the contrary, the managers of a limited
24 liability company, the partners of a limited liability partnership, and the general
25 partners of a limited liability limited partnership or any other person holding any
26 equivalent office of a limited liability company, limited liability partnership, or
27 limited liability limited partnership subject to the provisions of this chapter shall

1 be personally and individually liable, both jointly and severally, for the taxes
2 imposed under this chapter. Dissolution, withdrawal of the limited liability
3 company, limited liability partnership, or limited liability limited partnership
4 from the state, or the cessation of holding any office shall not discharge the
5 liability of any person. The personal and individual liability shall apply to each
6 and every manager of a limited liability company, partner of a limited liability
7 partnership, and general partner of a limited liability limited partnership at the
8 time the taxes become or became due. No person shall be personally and
9 individually liable under this subsection who had no authority to collect,
10 truthfully account for, or pay over any tax imposed by this chapter at the time
11 that the taxes imposed by this chapter become or became due. Taxes as used in
12 this section shall include interest accrued at the rate provided by KRS 131.183, all
13 applicable penalties imposed under this chapter, and all applicable penalties and
14 fees imposed under KRS 131.180, 131.410 to 131.445, and 131.990.
15 (13) The department may prescribe forms and promulgate administrative regulations
16 to execute and administer the provisions of this section.

17 ➔Section 30. KRS 186.050 is amended to read as follows:

- 18 (1) The annual registration fee shall be eleven dollars fifty cents (\$11.50) for:
- 19 (a) Motor vehicles, including pickup trucks and passenger vans; and
- 20 (b) Motor carrier vehicles, as defined in KRS 281.010, primarily designed for
- 21 carrying passengers or passengers for hire and having been designed or
- 22 constructed to transport not more than fifteen (15) passengers, including the
- 23 operator.
- 24 (2) Except as provided in KRS 186.041 and 186.162, the annual registration fee for
- 25 each motorcycle shall be nine dollars (\$9).
- 26 (3) (a) All motor vehicles having a declared gross weight of vehicle and any towed
- 27 unit of ten thousand (10,000) pounds or less, except those mentioned in

1 subsections (1) and (2) of this section, are classified as commercial vehicles
 2 and the annual registration fee, except as provided in subsections (4) to (14) of
 3 this section, shall be eleven dollars and fifty cents (\$11.50).

4 (b) All motor vehicles, except those mentioned in subsections (1) and (2) of this
 5 section, and those engaged in hauling passengers for hire which are designed
 6 or constructed to transport more than fifteen (15) passengers including the
 7 operator, whose registration fee shall be one hundred dollars (\$100), are
 8 classified as commercial vehicles and the annual registration fee, except as
 9 provided in subsections (3)(a) and (4) to (14) of this section, shall be as
 10 follows:

11	Declared Gross Weight of Vehicle	Registration
12	and Any Towed Unit	Fee
13	10,001-14,000	30.00
14	14,001-18,000	50.00
15	18,001-22,000	132.00
16	22,001-26,000	160.00
17	26,001-32,000	216.00
18	32,001-38,000	300.00
19	38,001-44,000	474.00
20	44,001-55,000	669.00
21	55,001-62,000	1,007.00
22	62,001-73,280	1,250.00
23	73,281-80,000	1,410.00

24 (4) (a) 1. Any farmer owning a truck having a gross weight of twenty-six
 25 thousand (26,000) pounds or less may have it registered as a farmer's
 26 truck and obtain a license for eleven dollars and fifty cents (\$11.50). The
 27 applicant's signature upon the certificate of registration and ownership

1 shall constitute a certificate that he is a farmer engaged in the production
2 of crops, livestock, or dairy products, that he owns a truck of the gross
3 weight of twenty-six thousand (26,000) pounds or less, and that during
4 the next twelve (12) months the truck shall not be used in for-hire
5 transportation and may be used in transporting persons, food, provender,
6 feed, machinery, livestock, material, and supplies necessary for his
7 farming operation, and the products grown on his farm.

8 2. Any farmer owning a truck having a gross weight of twenty-six
9 thousand one (26,001) pounds to thirty-eight thousand (38,000) pounds
10 may have it registered as a farmer's truck and obtain a license for eleven
11 dollars and fifty cents (\$11.50). The applicant's signature upon the
12 certificate of registration and ownership shall constitute a certificate that
13 he is a farmer engaged in the production of crops, livestock, or dairy
14 products, that he owns a truck of the gross weight between twenty-six
15 thousand one (26,001) pounds and thirty-eight thousand (38,000)
16 pounds, and that during the next twelve (12) months the truck shall not
17 be used in for-hire transportation and may be used in transporting
18 persons, food, provender, feed, machinery, livestock, material, and
19 supplies necessary for his farming operation and the products grown on
20 his farm.

21 (b) Any farmer owning a truck having a declared gross weight in excess of thirty-
22 eight thousand (38,000) pounds shall not be required to pay the fee set out in
23 subsection (3) of this section and, in lieu thereof, shall pay forty percent (40%)
24 of the fee set out in subsection (3) of this section and shall be exempt from
25 any fee charged under the provisions of KRS 281.752. The applicant's
26 signature upon the registration receipt shall be considered to be a certification
27 that he is a farmer engaged solely in the production of crops, livestock, or

1 dairy products, and that during the current registration year the truck will be
2 used only in transporting persons, food, provender, feed, and machinery used
3 in operating his farm and the products grown on his farm.

4 (c) An initial applicant for, or an applicant renewing, his or her registration
5 pursuant to this subsection, may at the time of application make a voluntary
6 contribution to be deposited into the agricultural program trust fund
7 established in KRS 246.247. The recommended voluntary contribution shall
8 be set at ten dollars (\$10) and automatically added to the cost of registration or
9 renewal unless the individual registering or renewing the vehicle opts out of
10 contributing the recommended amount. The county clerk shall collect and
11 forward the voluntary contribution to the cabinet for distribution to the
12 Department of Agriculture.

13 (5) Any person owning a truck or bus used solely in transporting school children and
14 school employees may have the truck or bus registered as a school bus and obtain a
15 license for eleven dollars fifty cents (\$11.50) by filing with the county clerk, in
16 addition to other information required, an affidavit stating that the truck or bus is
17 used solely in the transportation of school children and persons employed in the
18 schools of the district, that he has caused to be printed on each side of the truck or
19 bus and on the rear door the words "School Bus" in letters at least six (6) inches
20 high, and of a conspicuous color, and the truck or bus will be used during the next
21 twelve (12) months only for the purpose stated.

22 (6) Any church or religious organization owning a truck or bus used solely in
23 transporting persons to and from a place of worship or for other religious work may
24 have the truck or bus registered as a church bus and obtain a license for eleven
25 dollars and fifty cents (\$11.50) by filing with the county clerk, in addition to other
26 information required, an affidavit stating that the truck or bus will be used only for
27 the transporting of persons to and from a place of worship, or for other religious

1 work, and that there has been printed on the truck or bus in large letters the words
2 "Church Bus," with the name of the church or religious organization owning and
3 using the truck or bus, and that during the next twelve (12) months the truck or bus
4 will be used only for the purpose stated.

5 (7) Any person owning a motor vehicle with a gross weight of fourteen thousand
6 (14,000) pounds or less on which a wrecker crane or other equipment suitable for
7 wrecker service has been permanently mounted may register the vehicle and obtain
8 a license for eleven dollars fifty cents (\$11.50) by filing with the county clerk, in
9 addition to other information required, an affidavit that a wrecker crane or other
10 equipment suitable for wrecker service has been permanently mounted on such
11 vehicle and that during the next twelve (12) months the vehicle will be used only in
12 wrecker service. If the gross weight of the vehicle exceeds fourteen thousand
13 (14,000) pounds, the vehicle shall be registered in accordance with subsection (3) of
14 this section. The gross weight of a vehicle used in wrecker service shall not include
15 the weight of the vehicle being towed by the wrecker.

16 (8) Motor vehicles having a declared gross weight in excess of eighteen thousand
17 (18,000) pounds, which when operated in this state are used exclusively for the
18 transportation of property within the limits of the city named in the affidavit
19 hereinafter required to be filed, or within ten (10) miles of the city limits of the city
20 if it is a city with a population equal to or greater than three thousand (3,000) based
21 upon the most recent federal decennial census, or within five (5) miles of its limits
22 if it is a city with a population of less than three thousand (3,000) based upon the
23 most recent federal decennial census, or anywhere within a county containing an
24 urban-county government, shall not be required to pay the fee as set out in
25 subsection (3) of this section, and in lieu thereof shall pay seventy-five percent
26 (75%) of the fee set forth in subsection (3) of this section and shall be exempt from
27 any fee charged under the provisions of KRS 281.752. Nothing in this section shall

1 be construed to limit any right of nonresidents to exemption from registration under
2 any other provisions of the laws granting reciprocity to nonresidents. Operations
3 outside of this state shall not be considered in determining whether or not the
4 foregoing mileage limitations have been observed. When claiming the right to the
5 reduced fee, the applicant's signature on the certificate of registration and ownership
6 shall constitute a certification or affidavit stating that the motor vehicle when used
7 within this state is used only for the transportation of property within the city to be
8 named in the affidavit and the area above set out and that the vehicle will not be
9 used outside of a city and the area above set out during the current registration
10 period.

11 (9) Motor vehicles having a declared gross weight in excess of eighteen thousand
12 (18,000) pounds, which are used exclusively for the transportation of primary forest
13 products from the harvest area to a mill or other processing facility, where such mill
14 or processing facility is located at a point not more than fifty (50) air miles from the
15 harvest area or which are used exclusively for the transportation of concrete blocks
16 or ready-mixed concrete from the point at which such concrete blocks or ready-
17 mixed concrete is produced to a construction site where such concrete blocks or
18 ready-mixed concrete is to be used, where such construction site is located at a point
19 not more than thirty (30) air miles from the point at which such concrete blocks or
20 ready-mixed concrete is produced shall not be required to pay the fee as set out in
21 subsection (3) of this section, and in lieu thereof, shall pay seventy-five percent
22 (75%) of the fee set out in subsection (3) of this section and shall be exempt from
23 any fee charged under the provisions of KRS 281.752. The applicant's signature
24 upon the certificate of registration and ownership shall constitute a certification that
25 the motor vehicle will not be used during the current registration period in any
26 manner other than that for which the reduced fee is provided in this section.

27 (10) Any owner of a commercial vehicle registered for a declared gross weight in excess

1 of eighteen thousand (18,000) pounds, intending to transfer same and desiring to
2 take advantage of the refund provisions of KRS 186.056(2), may reregister such
3 vehicle and obtain a "For Sale" certificate of registration and ownership for one
4 dollar (\$1). Title to a vehicle so registered may be transferred, but such registration
5 shall not authorize the operation or use of the vehicle on any public highway. No
6 refund may be made under the provisions of KRS 186.056(2) until such time as the
7 title to such vehicle has been transferred to the purchaser thereof. Provided,
8 however, that nothing herein shall be so construed as to prevent the seller of a
9 commercial vehicle from transferring the registration of such vehicle to any
10 purchaser thereof.

11 (11) The annual registration fee for self-propelled vehicles containing sleeping or eating
12 facilities shall be twenty dollars (\$20) and the multiyear license plate issued shall be
13 designated "Recreational vehicle." The foregoing shall not include any motor
14 vehicle primarily designed for commercial or farm use having temporarily attached
15 thereto any sleeping or eating facilities, or any commercial vehicle having sleeping
16 facilities.

17 (12) The registration fee on any vehicle registered under this section shall be increased
18 fifty percent (50%) when the vehicle is not equipped wholly with pneumatic tires.

19 (13) (a) The Department of Vehicle Regulation is authorized to negotiate and execute
20 an agreement or agreements for the purpose of developing and instituting
21 proportional registration of motor vehicles engaged in interstate commerce, or
22 in a combination of interstate and intrastate commerce, and operating into,
23 through, or within the Commonwealth of Kentucky. The agreement or
24 agreements may be made on a basis commensurate with, and determined by,
25 the miles traveled on, and use made of, the highways of this Commonwealth
26 as compared with the miles traveled on and use made of highways of other
27 states, or upon any other equitable basis of proportional registration.

1 Notwithstanding the provisions of KRS 186.020, the cabinet shall promulgate
2 administrative regulations concerning the registration of motor vehicles under
3 any agreement or agreements made under this section and shall provide for
4 direct issuance by it of evidence of payment of any registration fee required
5 under such agreement or agreements. Any proportional registration fee
6 required to be collected under any proportional registration agreement or
7 agreements shall be in accordance with the taxes established in this section.

8 (b) Any owner of a commercial vehicle who is required to title his motor vehicle
9 under this section shall first title such vehicle with the county clerk pursuant
10 to KRS 186.020 for a state fee of one dollar (\$1). Title to such vehicle may be
11 transferred; however title without proper registration shall not authorize the
12 operation or use of the vehicle on any public highway. Any commercial
13 vehicle properly titled in Kentucky may also be registered in Kentucky, and,
14 upon payment of the required fees, the department may issue an apportioned
15 registration plate to such commercial vehicle.

16 (c) Any commercial vehicle that is properly titled in a foreign jurisdiction, which
17 vehicle is subject to apportioned registration, as provided in paragraph (a) of
18 this subsection, may be registered in Kentucky, and, upon proof of proper title
19 and payment of the required fees, the department may issue an apportioned
20 registration plate to the commercial vehicle. The department shall promulgate
21 administrative regulations in accordance with this section.

22 (14) Any person seeking to obtain a special license plate for an automobile that has been
23 provided to him pursuant to an occupation shall meet both of the following
24 requirements:

25 (a) The automobile shall be provided for the full-time exclusive use of the
26 applicant; and

27 (b) The applicant shall obtain permission in writing from the vehicle owner or

1 lessee on a form provided by the cabinet to use the vehicle and for the vehicle
2 to bear the special license plate.

3 (15) An applicant for any motor vehicle registration issued pursuant to this section shall
4 have the opportunity to make a donation of two dollars (\$2) to promote a hunger
5 relief program through specific wildlife management and conservation efforts by the
6 Department of Fish and Wildlife Resources in accordance with KRS 150.015. If an
7 applicant elects to make a contribution under this subsection, the two dollar (\$2)
8 donation shall be added to the regular fee for any motor vehicle registration issued
9 pursuant to this section. One (1) donation may be made per issuance of each
10 registration. The fee shall be paid to the county clerk and shall be transmitted by the
11 State Treasurer to the Department of Fish and Wildlife Resources to be used
12 exclusively for the purpose of wildlife management and conservation activities in
13 support of hunger relief. The county clerk may retain up to five percent (5%) of the
14 fees collected under this subsection for administrative costs associated with the
15 collection of this donation. Any donation requested under this subsection shall be
16 voluntary and may be refused by the applicant at the time of issuance or renewal of
17 a license plate.

18 **(16) In addition to the fees outlined in this section, the county clerk shall collect from**
19 **the registrants of electric vehicles and hybrid vehicles the battery reclamation and**
20 **mitigation fees established in Section 31 of this Act.**

21 ➔SECTION 31. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO
22 READ AS FOLLOWS:

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

24 **(a) "Electric motorcycle" means the same as "motorcycle" or "motor scooter"**
25 **as defined in KRS 186.010, that is powered by a:**

26 **1. Battery or equivalent energy storage device that can be charged with**
27 **an electric plug using an external electricity source; or**

1 2. Combination of an internal combustion engine and electric motor;

2 (b) "Electric vehicle" means any vehicle that has plug-in charging capability,
3 regardless of whether the vehicle is powered by:

4 1. An electric motor only; or

5 2. A combination of an internal combustion engine and electric power;
6 and

7 (c) "Hybrid vehicle" means any vehicle that does not have plug-in charging
8 capability and is powered by a combination of an internal combustion
9 engine and an electric motor.

10 (2) At the time of initial registration, and each year upon annual vehicle registration
11 renewal, the county clerk shall collect, as required under Section 30 of this Act,
12 from the registrants of electric motorcycles, electric vehicles, and hybrid vehicles
13 the battery reclamation and mitigation fees established under subsection (3) of
14 this section.

15 (3) The battery reclamation and mitigation fee shall be:

16 (a) One hundred forty dollars (\$140) for electric vehicles; and

17 (b) Seventy dollars (\$70) for electric motorcycles or hybrid vehicles.

18 (4) All battery reclamation and mitigation fees collected under this section shall be
19 transferred to the general fund.

20 ➔Section 32. KRS 131.400 is amended to read as follows:

21 (1) KRS 131.410 to 131.445 shall be known as and may be cited as the "Kentucky Tax
22 Amnesty Act."

23 (2)~~[(The department shall develop and administer tax amnesty programs as provided in~~
24 ~~KRS 131.410 to 131.445.~~

25 (3)~~]~~ As used in KRS 131.410 to 131.445~~[(, unless the context requires otherwise]:~~

26 (a) "Account receivable" means an amount of state or federal tax, penalty, fee,
27 or interest which has been recorded as due and entered in the account

1 records of the department, or which the taxpayer should reasonably expect
2 to become due as a direct or indirect result of any pending or completed
3 audit or investigation which the taxpayer knows is being conducted by any
4 federal or state government taxing authority;

5 (b) "Amnesty period" means the period of time established pursuant to subsection
6 (3)~~[(4)(a) or (b)]~~ of this section during which a taxpayer may apply for tax
7 amnesty;

8 (c) "Due and owing" means an assessment which has become final and is
9 owed to the Commonwealth due to either the expiration of the taxpayer's
10 appeal rights pursuant to KRS 131.110 or, if an assessment has been
11 appealed, the issuance of a final order by the board or by any court of this
12 Commonwealth. For the purposes of KRS 131.410 to 131.445, assessments
13 that have been appealed shall be final, due and owing fifteen (15) days after
14 the last unappealed or unappealable order sustaining the assessment or any
15 part thereof has become final;

16 (d) "Federal government" means either the United States Department of
17 Treasury or the Internal Revenue Service; and

18 (e)~~[(b)]~~ "Taxpayer" means any individual, partnership, joint venture, association,
19 corporation, receiver, trustee, guardian, executor, administrator, fiduciary,
20 limited liability company, limited liability partnership, or any other entity of
21 any kind subject to any tax set forth in subsection (3)~~[(4)]~~ of this section or
22 any person required to collect any such tax under subsection (3)~~[(4)]~~ of this
23 section~~;~~;

24 (e) ~~"Account receivable" means an amount of state tax, penalty, fee, or interest~~
25 ~~which has been recorded as due and entered in the account records of the~~
26 ~~department, or which the taxpayer should reasonably expect to become due as~~
27 ~~a direct or indirect result of any pending or completed audit or investigation~~

1 ~~which the taxpayer knows is being conducted by any federal or state~~
2 ~~government taxing authority; and~~

3 ~~(d) "Due and owing" means an assessment which has become final and is owed to~~
4 ~~the Commonwealth due to either the expiration of the taxpayer's appeal rights~~
5 ~~pursuant to KRS 131.110 or, if an assessment has been appealed, the issuance~~
6 ~~of a final order by the board or by any court of this Commonwealth. For the~~
7 ~~purposes of KRS 131.410 to 131.445, assessments that have been appealed~~
8 ~~shall be final, due and owing fifteen (15) days after the last unappealed or~~
9 ~~unappealable order sustaining the assessment or any part thereof has become~~
10 ~~final}.~~

11 ~~(3)[(4) (a) Notwithstanding the provisions of any other law to the contrary, a tax~~
12 ~~amnesty program shall be conducted by the department during the fiscal year ending~~
13 ~~June 30, 2003, for a period of not less than sixty (60) days nor more than one~~
14 ~~hundred and twenty (120) days and shall apply to all taxpayers owing taxes,~~
15 ~~penalties, fees, or interest subject to the administrative jurisdiction of the~~
16 ~~department, with the exceptions of ad valorem taxes levied on real property~~
17 ~~pursuant to KRS Chapter 132, ad valorem taxes on motor vehicles and motorboats~~
18 ~~collected by the county clerks, and ad valorem taxes on personal property levied~~
19 ~~pursuant to KRS Chapter 132 that are payable to local officials. The program shall~~
20 ~~apply to tax liabilities for taxable periods ending or transactions occurring after~~
21 ~~December 1, 1987, but prior to December 1, 2001. Amnesty tax return forms shall~~
22 ~~be in a form prescribed by the department.~~

23 ~~(b)]~~Notwithstanding the provisions of any other law to the contrary, a tax amnesty
24 program shall be conducted~~[by the department during the fiscal year ending June~~
25 ~~30, 2013,]~~ for a period of~~[not less than]~~ sixty (60) days, **beginning on October 1,**
26 **2022, and ending on November 29, 2022**~~[nor more than one hundred twenty (120)~~
27 ~~days].~~ The program shall be available to all taxpayers owing;

1 (a) Taxes, penalties, fees, or interest subject to the administrative jurisdiction of
 2 the department, with the exception of:

- 3 1. Ad valorem taxes levied on real property pursuant to KRS Chapter 132;
- 4 2. Ad valorem taxes on motor vehicles and motorboats collected by the
 5 county clerks;
- 6 3. Ad valorem taxes on personal property levied pursuant to KRS Chapter
 7 132 that are payable to local officials; and
- 8 4. Any penalties imposed under KRS 131.630 or 138.205; and

9 (b) Federal taxes, penalties, fees, or interest referred to the department from the
 10 federal government for collection purposes.

11 (4) If the department is unable to secure a successful bid for the procurement of
 12 services under Section 36 of this Act, the department shall implement a tax
 13 amnesty program during a sixty (60) day period similar to the period established
 14 in subsection (3) of this section, except that the sixty (60) day period shall be held
 15 during the calendar year 2023.

16 (5) The program shall apply to tax liabilities for taxable periods ending or transactions
 17 occurring on or after ~~December 1, 2001, and prior to~~ October 1, 2011, but prior to
 18 December 1, 2021, and any federal tax liability referred to the department~~.~~
 19 ~~Amnesty tax forms and submissions shall be in a form prescribed by the~~
 20 ~~department~~.

21 ➔Section 33. KRS 131.410 is amended to read as follows:

22 (1) For any taxpayer who meets the requirements of KRS 131.420:

- 23 (a) 1. For taxes which are owed as a result of the nonreporting or
 24 underreporting of tax liabilities or the nonpayment of any account
 25 receivable owed by an eligible taxpayer, the Commonwealth shall waive
 26 criminal prosecution and all civil penalties and fees which may be
 27 assessed under any KRS chapter subject to the administrative

1 jurisdiction of the department for the taxable years or periods for which
2 tax amnesty is requested.

3 2. For the amnesty periods described in KRS 131.400~~(3)~~~~(4)~~, the
4 Commonwealth shall waive interest as provided in ~~subsection (1) of~~
5 KRS 131.425~~(1)~~.

6 (b) Except when the taxpayer and department enter into an installment payment
7 agreement authorized under ~~subsection (3) of~~ KRS 131.420~~(3)~~, failure to pay
8 all taxes as shown on the taxpayer's amnesty tax return shall invalidate any
9 amnesty granted under~~pursuant to~~ KRS 131.410 to 131.445.

10 (2) This section shall not apply to any taxpayer who is on notice, written or otherwise,
11 of a criminal investigation being conducted by an agency of the state or any political
12 subdivision thereof or the United States, nor shall this section apply to any taxpayer
13 who is the subject of any criminal litigation which is pending on the date of the
14 taxpayer's application in any court of this state or the United States for nonpayment,
15 delinquency, evasion or fraud in relation to any federal taxes or to any of the taxes
16 to which this amnesty program is applicable.

17 (3) No refund or credit shall be granted for any interest, fee, or penalty paid prior to the
18 time the taxpayer requests amnesty pursuant to KRS 131.420.

19 (4) Unless the department in its own discretion redetermines the amount of taxes due,
20 no refund or credit shall be granted for any taxes paid under the amnesty program.
21 Any administrative or judicial proceeding or claim seeking the refund or recovery of
22 any amount paid under an amnesty program is hereby barred.

23 ➔Section 34. KRS 131.420 is amended to read as follows:

24 (1) The provisions of KRS 131.400 to 131.445 shall apply to any eligible taxpayer who
25 files an application for amnesty within the time prescribed under subsection (3) of
26 Section 32 of this Act~~by the department~~ and does the following:

27 (a) Files completed tax returns for all years or tax reporting periods as stated on

- 1 the application for which returns have not previously been filed and files
2 completed amended tax returns for all years or tax reporting periods as stated
3 on the application for which the tax liability was underreported, except in
4 cases in which the tax liability has been established through audit;
- 5 (b) Pays in full the taxes due for the periods and taxes applied for at the time the
6 application or amnesty tax returns are filed within the amnesty period and
7 pays the amount of any additional tax owed within thirty (30) days of
8 notification by the department;
- 9 (c) Pays in full within the amnesty period all taxes previously assessed by the
10 department that are due and owing at the time the application or amnesty tax
11 returns are filed;~~and~~
- 12 (d) Pays in full within the amnesty period all taxes, penalties, fees, and interest
13 assessed by the federal government and referred to the department for
14 collection purposes; and
- 15 (e) With regard to the program described in KRS 131.400~~(3)~~~~(4)(b)~~, agrees to
16 file all tax returns when due and make all tax payments when due for three (3)
17 years following the date amnesty is granted to the taxpayer.
- 18 (2) An eligible taxpayer may participate in the amnesty program whether or not the
19 taxpayer is under audit, notwithstanding the fact that the amount due is included in
20 a proposed assessment or an assessment, bill, notice, or demand for payment issued
21 by the department, and without regard to whether the amount due is subject to a
22 pending administrative or judicial proceeding. An eligible taxpayer may participate
23 in the amnesty program to the extent of the uncontested portion of any assessed
24 liability. However, participation in the program shall be conditioned upon the
25 taxpayer's agreement that the right to protest or initiate an administrative or judicial
26 proceeding or to claim any refund of moneys paid under the program is barred with
27 respect to the amounts paid under the amnesty programs.

- 1 (3) (a) The department may enter into an installment payment agreement as provided
2 in KRS 131.081(9) in cases of severe hardship in lieu of the complete
3 payment required under subsection (1) of this section.
- 4 (b) Failure of the taxpayer to make timely payments shall void the amnesty
5 granted the taxpayer.
- 6 (c) ~~{1. All agreements and payments under the program described in KRS~~
7 ~~131.400(4)(a) shall include interest as provided under subsection (2) of~~
8 ~~KRS 131.425.~~
- 9 ~~2.}~~ All agreements and payments under the program described in KRS
10 131.400~~(3){(4)(b)}~~ shall include interest as provided under KRS 131.425(3).
- 11 (d) All required payments under an installment payment agreement under the
12 program described in KRS 131.400~~(3){(4)(b)}~~ shall be made on or before May
13 31, 2023~~[2013]~~.
- 14 (e) 1. If a taxpayer fails to make all required payments under paragraph (d) of
15 this subsection by May 31, 2023~~[2013]~~, the amnesty received by the
16 taxpayer shall be invalidated, and all civil penalties, fees, and interest
17 waived under the amnesty agreement shall:
- 18 a. Be reinstated;
19 b. Be subject to immediate collection by the department; and
20 c. Not be subject to protest under KRS 131.110.
- 21 2. The department may utilize any remedy allowed by law to recover the
22 amounts reinstated, and no statute of limitations shall apply.
- 23 (4) If, following the termination of the tax amnesty period, the department issues a
24 deficiency assessment based upon information independent of that shown on a
25 return filed pursuant to subsection (1) of this section, the department shall have the
26 authority to impose penalties and criminal action may be brought where authorized
27 by law only with respect to the difference between the amount shown on the

1 amnesty tax return and the correct amount of tax due. The imposition of penalties or
2 criminal action shall not invalidate any waiver granted under KRS 131.410. With
3 the exception of the cost-of-collection fee imposed under ~~subsection (1) of~~ KRS
4 131.440~~(1)~~, all assessments issued by the department under KRS 131.410 to
5 131.445 may be protested by the taxpayer in the same manner as other assessments
6 pursuant to the terms of this chapter.

7 ➔Section 35. KRS 131.425 is amended to read as follows:

8 (1) Notwithstanding the provisions of KRS 131.183(1), all taxes paid under an amnesty
9 program return~~[-~~:

10 ~~(a) Filed under the program described in KRS 131.400 (4)(a) shall bear no~~
11 ~~interest imposed under KRS 131.183(1) or other applicable statutes; and~~

12 ~~(b)]~~ filed under the program described in KRS 131.400~~(3)~~~~[(4)(b)]~~ shall bear interest at
13 one-half (1/2) the tax interest rate established by KRS 131.183(1) or other
14 applicable statutes.

15 (2) Notwithstanding the provisions of KRS 131.183(2) and 141.235, if any
16 overpayment of tax under KRS 131.410 to 131.445 is refunded or credited within
17 one hundred eighty (180) days after the return is filed, no interest shall be allowed.

18 (3) All installment payment agreements entered into pursuant to KRS 131.420 relating
19 to the program described in KRS 131.400~~(3)~~~~[(4)(b)]~~ shall bear interest on the
20 outstanding amount of tax due during the installment period at the full rate
21 established by KRS 131.183 or other applicable provisions of the Kentucky Revised
22 Statutes.

23 ➔Section 36. KRS 131.435 is amended to read as follows:

24 (1) The department and the Finance and Administration Cabinet shall begin
25 procurement for services necessary to implement the tax amnesty program under
26 KRS Chapter 45A, except as provided under subsection (2) of this section.

27 (2) (a) The department shall issue a request for proposal, which complies with

1 KRS 131.081, to solicit sufficient information for evaluating firms
2 submitting statements of interest in providing tax amnesty services
3 according to the following criteria:

4 1. The qualifications of the firm to:

- 5 a. Provide advertising services prior to the start of the program
6 described in subsection (3) of Section 32 of this Act and a toll-
7 free telephone number for taxpayers to call for assistance;
8 b. Provide a customer-service approach and strategy to ensure a
9 positive relationship with each taxpayer;
10 c. Contact every amnesty-eligible taxpayer, including by written
11 correspondence and other forms of electronic and nonelectronic
12 communication delivery channels, using contact and account
13 receivable data supplied by the department related to tax amnesty
14 and the tax amnesty period;
15 d. Employ the use of contact information correction sources,
16 including data for all undeliverable mail, updated telephone
17 numbers, and electronic mail addresses;
18 e. Assist any amnesty-eligible taxpayer by using tax-specific data,
19 billing codes, or other information provided by the department;
20 f. Maintain the confidentiality of all data under KRS 131.190
21 which is supplied by the department or the taxpayer; and
22 g. Remit daily to the department all amnesty applications and tax
23 payments received and all data corrections for the department's
24 databases;

25 2. The ability of all professional personnel employed by the firm that will
26 provide tax amnesty services, including:

- 27 a. The total number of personnel that will provide tax amnesty

- 1 services to taxpayers leading up to and during the amnesty
2 period;
- 3 b. The title of each specific position type and total number of
4 personnel filling each specific position type; and
- 5 c. The minimum qualifications for each specific position type;
- 6 3. The past record and experience of the firm in performing tax amnesty
7 services or other tax-related services;
- 8 4. Performance data related to past tax amnesty services or other tax-
9 related services performed by the firm;
- 10 5. Certification that the firm will meet the time requirements for the tax
11 amnesty program and will conclude all services in a timely manner as
12 required by the department or pay to the department a fee for failure
13 to meet the timeframe;
- 14 6. Verification of the location of all employees providing tax amnesty
15 services;
- 16 7. An agreement by the firm to provide a report to the department for
17 posting to the department's Web site related to the following items:
- 18 a. A report of the public information campaign performed by the
19 firm, including an itemized cost incurred;
- 20 b. The number of incoming telephone calls answered by week;
- 21 c. The number of mailings sent to taxpayers;
- 22 d. The number of returned mail items received;
- 23 e. The number of amnesty applications received from taxpayers by
24 week;
- 25 f. The number of amnesty applications that were approved by
26 taxpayer type;
- 27 g. The number of amnesty applications that were denied by

1 taxpayer type and the number of denied amnesty applications by
2 reason for denial;

3 h. According to the address listed on the amnesty application,
4 information related to the absolute number and percentage of
5 total for:

6 i. Amnesty applications received from businesses or
7 individuals and whether the taxpayer was in-state or out-
8 of-state;

9 ii. Amounts collected from businesses or individuals and
10 whether the taxpayer was in-state or out-of-state; and

11 iii. The total amount collected by county, including the
12 number of applications received by a business, individual,
13 or office or member and the total amount paid for each
14 category;

15 i. The number of amnesty applications received by appropriate
16 payment ranges for the population of applications;

17 j. The payment amount received by type of tax;

18 k. The amount of tax collected by tax year;

19 l. The amount of federal tax collected by tax year;

20 m. The number of newly registered taxpayers; and

21 n. The amount of tax collected on protested audits by tax type and
22 whether the amnesty payment paid the tax protested in full or
23 was a partial payment on the audit; and

24 8. Any other information required by the department.

25 (b) When evaluating firms submitting statements of interest in providing tax
26 amnesty services, the department shall use a weighted-evaluation approach
27 to select a firm, including:

1 1. The ability of the firm to:

- 2 a. Provide a customer-service and taxpayer-assistance approach in
3 providing amnesty services, including communication with
4 taxpayers before and during the amnesty period, weighted no
5 more than thirty percent (30%) of the evaluation score; and
6 b. Maintain lines of communication with the department related to
7 strategy for and delivery of amnesty services and report to the
8 department regarding the results from the firm delivering
9 amnesty services, weighted no more than twenty-five percent
10 (25%) of the evaluation score;

11 2. The bid of the firm to provide amnesty services, weighted no more
12 than fifteen percent (15%) of the evaluation score; and

13 3. The past performance of the firm with other states, including how well
14 the firm met goals established by the other states, weighted no more
15 than thirty percent (30%) of the evaluation score.

16 (3) For purposes of accounting for the revenues received pursuant to KRS 131.410 to
17 131.445, the department shall establish within the general fund a separate and
18 distinct tax amnesty receipt account. All receipts collected as a result of the amnesty
19 program shall be paid into this account, and all transactions involving this account
20 shall be accounted for and reported as such.

21 (4) Following receipt of the report required by subsection (2) of this section and the
22 disposition of moneys as required by subsection (3) of this section, the department
23 shall provide a report summarizing the amnesty program results to the Interim
24 Joint Committee on Appropriations and Revenue no later than July 1, 2023.

25 ➔Section 37. KRS 131.440 is amended to read as follows:

26 ~~(1) (a) For purposes of the program described in KRS 131.400(4)(a), in addition to~~
27 ~~all other penalties provided under KRS 131.180, 131.410 to 131.445, and~~

1 ~~131.990 and any other law, there is hereby imposed after the expiration of the~~
2 ~~tax amnesty period the following cost of collection fees:~~

3 ~~1. A cost of collection fee of twenty five percent (25%) on all taxes which~~
4 ~~are or become due and owing to the department for any reporting period,~~
5 ~~regardless of when due. This fee shall be in addition to any other~~
6 ~~applicable fee provided in this paragraph;~~

7 ~~2. Taxes which are assessed and collected after the amnesty period for~~
8 ~~taxable periods ending or transactions occurring prior to December 1,~~
9 ~~2001, shall be charged a cost of collection fee of twenty five percent~~
10 ~~(25%) at the time of assessment; and~~

11 ~~3. For any taxpayer who failed to file a return for any previous tax period~~
12 ~~for which amnesty is available and fails to file the return during the~~
13 ~~amnesty period, the cost of collection fee shall be fifty percent (50%) of~~
14 ~~any tax deficiency assessed after the amnesty period.~~

15 ~~(b)}~~ For purposes of the program described in KRS 131.400~~(3)~~~~[(4)(b)]~~:

16 ~~(a)~~~~[(1)]~~ In addition to all other penalties provided under KRS 131.180, 131.410
17 to 131.445, 131.990 and any other law, there are hereby imposed after the
18 expiration of the tax amnesty period the following cost-of-collection fees:

19 ~~1.~~~~[(a)]~~ A cost-of-collection fee of twenty-five percent (25%) on all taxes which
20 are or become due and owing to the department for any reporting period,
21 regardless of when due. This fee shall be in addition to any other
22 applicable fee provided in this paragraph;

23 ~~2.~~~~[(b)]~~ Taxes which are assessed and collected after the amnesty period for
24 taxable periods ending or transactions occurring prior to **December 1,**
25 **2021**~~[(October 1, 2011)]~~, shall be charged a cost-of-collection fee of
26 twenty-five percent (25%) at the time of assessment; and

27 ~~3.~~~~[(c)]~~ For any taxpayer who failed to file a return for any previous tax period

1 for which amnesty is available and fails to file the return during the
2 amnesty period, the cost-of-collection fee shall be fifty percent (50%) of
3 any tax deficiency assessed after the amnesty period.

4 **(b)**~~[2-]~~ After expiration of the tax amnesty period, an amnesty-eligible tax
5 liability that remains unpaid and that is not covered by an installment
6 agreement as provided in KRS 131.420 shall accrue interest at a rate that is
7 two percent (2%) above the interest rate established by KRS 131.183 or other
8 applicable provisions of the Kentucky Revised Statutes, beginning on the day
9 after the tax amnesty period ends.

10 (2) The commissioner shall have the right to waive any penalties or collection fees
11 when it is demonstrated that any deficiency of the taxpayer was due to reasonable
12 cause as defined in KRS 131.010(9). However, any taxes that cannot be paid under
13 the amnesty program because of the exclusions under~~[in subsection (2) of]~~ KRS
14 131.410**(2)** shall not be subject to these fees.

15 (3) The provisions of subsection (1) of this section shall not relate to any account which
16 has been protested pursuant to KRS 131.110 as of the expiration of the amnesty
17 period and which does not become due and owing, or to any account on which the
18 taxpayer is remitting timely payments under a payment agreement negotiated with
19 the department prior to or during the amnesty period.

20 (4) The fee levied under subsection (1) of this section shall not apply to taxes paid
21 pursuant to the terms of the amnesty program nor shall the judgment penalty of
22 twenty percent (20%) levied under KRS 135.060(3) apply in any case in which the
23 fee levied under this section is applicable.

24 ➔Section 38. KRS 131.445 is amended to read as follows:

25 (1) After the expiration of the tax amnesty period, the department shall vigorously
26 pursue all civil, administrative, and criminal penalties authorized by state and
27 federal law for all taxes found to be due the Commonwealth.

- 1 (2) In addition to all other penalties provided under KRS 131.180, 131.410 to 131.445,
2 131.990, and any other law, any taxpayer who willfully fails to make a return or
3 willfully makes a false return, or who willfully fails to pay taxes owing or collected,
4 with intent to evade payment of the tax or amount collected, or any part thereof,
5 shall be guilty of a Class D felony.
- 6 (3) (a) Amnesty received by a taxpayer under the program described in KRS
7 131.400~~(3)(4)(b)~~ shall be invalidated if:
- 8 1. The taxpayer fails to timely file any tax return or timely pay any tax and
9 interest due for any period ending on or after October 1,
10 2011~~[December 31, 2011]~~, but~~[and]~~ prior to December 1, 2021~~[October~~
11 ~~1, 2011]~~; or
- 12 2. The taxpayer fails to timely file any tax return or timely pay any tax for
13 any period beginning December 1, 2021~~[October 1, 2011]~~, and ending
14 within three (3) years of the date amnesty was granted to the taxpayer.
- 15 (b) Except as provided in paragraph (d) of this subsection, if the provisions of
16 paragraph (a) of this subsection apply, then the civil penalties, fees, and
17 interest waived pursuant to KRS 131.410 shall:
- 18 1. Be reinstated;
19 2. Be subject to immediate collection by the department; and
20 3. Not be subject to protest under KRS 131.110.
- 21 (c) The department may utilize any remedy permitted under the law to collect
22 amounts due under this subsection, and no statute of limitations shall apply.
- 23 (d) If paragraph (a) of this subsection applies to a taxpayer as the result of an
24 audit or other investigation by the department, the amnesty shall not be
25 invalidated until the taxpayer has had the opportunity to protest as provided in
26 KRS 131.110, and has failed to pay the tax within thirty (30) days of the date
27 on which the assessment becomes final, due, and owing as provided in KRS

1 131.500(1).

2 ➔Section 39. KRS 68.200 is amended to read as follows:

3 (1) As used in this section, unless the context clearly indicates otherwise:

4 (a) "Gross rental charge" has the same meaning as in KRS 138.462;

5 (b) "Motor vehicle" has the same meaning as~~[- means]~~ "vehicle" as defined in
6 KRS 186.010(8)(a);

7 (c) "Peer-to-peer car sharing" has the same meaning as in Section 9 of this
8 Act;

9 (d) "Peer-to-peer car sharing program" has the same meaning as in Section 9
10 of this Act;

11 (e) "Peer-to-peer car sharing program agreement":

12 1. Means the terms and conditions applicable to a shared vehicle owner
13 and a shared vehicle driver that govern the use of a shared vehicle
14 through a peer-to-peer care sharing program; and

15 2. Does not include rental or lease agreements entered with persons
16 operating under a U-Drive-It certificate as defined in Section 9 of this
17 Act;

18 (f)~~[(b)]~~ "Retailer" has the same meaning as in Section 2 of this Act~~[- means~~
19 ~~"retailer" as defined in KRS 139.010]; and~~

20 (g) "Shared vehicle driver" has the same meaning as in Section 9 of this Act

21 ~~[(e) —Gross rental charge means "gross rental charge" as defined in KRS 138.462].~~

22 (2) A county containing a designated city, consolidated local government, or urban-
23 county government may levy a license fee;

24 (a) On the rental of motor vehicles which shall not exceed three percent (3%) of
25 the gross rental charges from rental agreements for periods of thirty (30) days
26 or less; and

27 (b) On peer-to-peer car sharing which shall not exceed three percent (3%) of

1 the gross rental charges from the peer-to-peer car sharing program
2 agreement.

3 (3) The license fee shall apply to retailers who receive more than seventy-five percent
4 (75%) of their gross revenues generated in the county from gross rental charges.

5 (4) Any license fee levied pursuant to this subsection shall be collected by the:

6 (a) Retailer from the renters of the motor vehicles; and

7 (b) Peer-to-peer car sharing program from the shared vehicle driver.

8 (5)~~[(3)]~~ Revenues from rental of motor vehicles shall not be included in the gross
9 rental charges on which the license fee is based if:

10 (a) The declared gross weight of the motor vehicle exceeds eleven thousand
11 (11,000) pounds; or

12 (b) The rental is part of the services provided by a funeral director for a funeral;
13 or

14 (c) The rental is exempted from the state sales and use tax pursuant to KRS
15 139.470.

16 (6)~~[(4)]~~ A fiscal court or the legislative body of an urban-county government shall
17 provide for collection of the license fee in the ordinance by which the license fee is
18 levied. The revenues shall be deposited in an account to be known as the motor
19 vehicle license fee account. The revenues may be shared among local governments
20 pursuant to KRS 65.210 to 65.300.

21 (7)~~[(5)]~~ The county shall use the proceeds of the license fee for economic
22 development activities. It shall distribute semiannually, by June 30 and December
23 31, all revenues not shared pursuant to KRS 65.210 to 65.300, to one (1) or more of
24 the following entities if it has established, or contracted with, the entity for the
25 purposes of economic development and is satisfied that the entity is promoting
26 satisfactorily the county's economic development activities:

27 (a) A riverport authority established by the county pursuant to KRS 65.520; or

1 (b) An industrial development authority established by the county pursuant to
2 KRS 154.50-316; or

3 (c) A nonprofit corporation as defined in KRS 273.161(4) which has been
4 organized for the purpose of promoting economic development.

5 The entity shall make a written request for funds from the motor vehicle license fee
6 account by May 31 and November 30, respectively.

7 ~~(8)~~~~(6)~~ (a) As used in this section, "designated city" means a city on the registry
8 maintained by the Department for Local Government under this subsection.

9 (b) On or before January 1, 2015, the Department for Local Government shall
10 create and maintain a registry of cities that, as of August 1, 2014, were
11 classified as cities of the first, second, and third class. The Department for
12 Local Government shall make the information included on the registry
13 available to the public by publishing it on its Web site.

14 ➔Section 40. KRS 143.022 is amended to read as follows:

15 (1) A taxpayer engaged in severing or processing coal within this Commonwealth that
16 has paid the tax imposed under KRS 143.020 may apply for a refund equal to the
17 amount of tax paid under KRS 143.020 if the coal is transported directly to a market
18 outside of North America.

19 (2) To apply for the refund allowed under subsection (1) of this section the taxpayer
20 shall file an application for refund with the department and submit all information
21 and documentation necessary to substantiate that the tax was paid upon the coal
22 which was transported directly to a market outside of North America.

23 (3) The refund process allowed under subsection (1) of this section is available
24 beginning on or after August 1, 2020, but before July 1, 2024~~2022~~, and limited
25 during any calendar year to the export of a combined total of ten million
26 (10,000,000) tons of coal subject to the tax imposed under KRS 143.020 and
27 exported through United States coal export terminals to markets outside of North

1 America.

2 ➔Section 41. KRS 141.010 is amended to read as follows:

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

4 (1) "Adjusted gross income," in the case of taxpayers other than corporations, means
5 the amount calculated in KRS 141.019;

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

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

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

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

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

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

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

24 2. For the purposes of this paragraph:

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

1 and

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

8 (c) The real estate investment trust is not owned by another real estate investment
9 trust;

10 (3) "Commissioner" means the commissioner of the department;

11 (4) "Corporation" has the same meaning as in Section 7701(a)(3) of the Internal
12 Revenue Code;

13 (5) "Critical infrastructure" means property and equipment owned or used by
14 communications networks, electric generation, transmission or distribution systems,
15 gas distribution systems, or water or wastewater pipelines that service multiple
16 customers or citizens, including but not limited to real and personal property such as
17 buildings, offices, lines, poles, pipes, structures, or equipment;

18 (6) "Declared state disaster or emergency" means a disaster or emergency event for
19 which:

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

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

23 (7) "Department" means the Department of Revenue;

24 (8) "Dependent" means those persons defined as dependents in the Internal Revenue
25 Code;

26 (9) "Disaster or emergency-related work" means repairing, renovating, installing,
27 building, or rendering services that are essential to the restoration of critical

1 infrastructure that has been damaged, impaired, or destroyed by a declared state
2 disaster or emergency;

3 (10) "Disaster response business" means any entity:

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

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

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

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

15 (12) "Disaster response period" means a period that begins ten (10) days prior to the first
16 day of the Governor's declaration under KRS 39A.100, or the President's declaration
17 of a federal major disaster or emergency, whichever occurs first, and that extends
18 thirty (30) calendar days after the declared state disaster or emergency;

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

20 (a) Being organized under the laws of this state;

21 (b) Having a commercial domicile in this state;

22 (c) Owning or leasing property in this state;

23 (d) Having one (1) or more individuals performing services in this state;

24 (e) Maintaining an interest in a pass-through entity doing business in this state;

25 (f) Deriving income from or attributable to sources within this state, including
26 deriving income directly or indirectly from a trust doing business in this state,
27 or deriving income directly or indirectly from a single-member limited

1 liability company that is doing business in this state and is disregarded as an
2 entity separate from its single member for federal income tax purposes; or

3 (g) Directing activities at Kentucky customers for the purpose of selling them
4 goods or services.

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

8 (14) "Employee" has the same meaning as in Section 3401(c) of the Internal Revenue
9 Code;

10 (15) "Employer" has the same meaning as in Section 3401(d) of the Internal Revenue
11 Code;

12 (16) "Fiduciary" has the same meaning as in Section 7701(a)(6) of the Internal Revenue
13 Code;

14 (17) "Financial institution" means:

15 (a) A national bank organized as a body corporate and existing or in the process
16 of organizing as a national bank association pursuant to the provisions of the
17 National Bank Act, 12 U.S.C. secs. 21 et seq., in effect on December 31,
18 1997, exclusive of any amendments made subsequent to that date;

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

21 (c) Any corporation organized under the provisions of 12 U.S.C. secs. 611 to 631,
22 in effect on December 31, 1997, exclusive of any amendments made
23 subsequent to that date, or any corporation organized after December 31,
24 1997, that meets the requirements of 12 U.S.C. secs. 611 to 631, in effect on
25 December 31, 1997; or

26 (d) Any agency or branch of a foreign depository as defined in 12 U.S.C. sec.
27 3101, in effect on December 31, 1997, exclusive of any amendments made

1 subsequent to that date, or any agency or branch of a foreign depository
2 established after December 31, 1997, that meets the requirements of 12 U.S.C.
3 sec. 3101 in effect on December 31, 1997;

4 (18) "Fiscal year" has the same meaning as in Section 7701(a)(24) of the Internal
5 Revenue Code;

6 (19) "Gross income":

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

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

10 (20) "Individual" means a natural person;

11 (21) "Internal Revenue Code" means {:

12 ~~(a) For taxable years beginning on or after January 1, 2018, but before January 1,~~
13 ~~2019, the Internal Revenue Code in effect on December 31, 2017, including~~
14 ~~the provisions contained in Pub. L. No. 115-97 apply to the same taxable year~~
15 ~~as the provisions apply for federal purposes, exclusive of any amendments~~
16 ~~made subsequent to that date, other than amendments that extend provisions~~
17 ~~in effect on December 31, 2017, that would otherwise terminate; and~~

18 ~~(b) }~~for taxable years beginning on or after January 1, 2022~~[2019]~~, the Internal
19 Revenue Code in effect on December 31, 2021~~[2018]~~, **excluding:**

20 **(a) Pub. L. No. 117-2, sec. 9673, related to the tax treatment of restaurant**
21 **revitalization grants; and**~~{ exclusive of }~~

22 **(b)** Any amendments made subsequent to that date~~{, other than amendments that~~
23 ~~extend provisions in effect on December 31, 2018, that would otherwise~~
24 ~~terminate}~~;

25 (22) "Limited liability pass-through entity" means any pass-through entity that affords
26 any of its partners, members, shareholders, or owners, through function of the laws
27 of this state or laws recognized by this state, protection from general liability for

1 actions of the entity;

2 (23) "Modified gross income" means the greater of:

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

6 1. Include interest income derived from obligations of sister states and
7 political subdivisions thereof; and

8 2. Include lump-sum pension distributions taxed under the special
9 transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or

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

13 (24) "Net income":

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

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

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

18 (26) "Number of withholding exemptions claimed" means the number of withholding
19 exemptions claimed in a withholding exemption certificate in effect under KRS
20 141.325, except that if no such certificate is in effect, the number of withholding
21 exemptions claimed shall be considered to be zero;

22 (27) "Part-year resident" means any individual that has established or abandoned
23 Kentucky residency during the calendar year;

24 (28) "Pass-through entity" means any partnership, S corporation, limited liability
25 company, limited liability partnership, limited partnership, or similar entity
26 recognized by the laws of this state that is not taxed for federal purposes at the
27 entity level, but instead passes to each partner, member, shareholder, or owner their

- 1 proportionate share of income, deductions, gains, losses, credits, and any other
2 similar attributes;
- 3 (29) "Payroll period" has the same meaning as in Section 3401(b) of the Internal
4 Revenue Code;
- 5 (30) "Person" has the same meaning as in Section 7701(a)(1) of the Internal Revenue
6 Code;
- 7 (31) "Registered business" means a business entity that owns or otherwise possesses
8 critical infrastructure and that is registered to do business in the state prior to the
9 declared state disaster or emergency;
- 10 (32) "Resident" means an individual domiciled within this state or an individual who is
11 not domiciled in this state, but maintains a place of abode in this state and spends in
12 the aggregate more than one hundred eighty-three (183) days of the taxable year in
13 this state;
- 14 (33) "S corporation" has the same meaning as in Section 1361(a) of the Internal Revenue
15 Code;
- 16 (34) "State" means a state of the United States, the District of Columbia, the
17 Commonwealth of Puerto Rico, or any territory or possession of the United States;
- 18 (35) "Taxable net income":
- 19 (a) In the case of corporations that are taxable in this state, means "net income" as
20 defined in subsection (24) of this section;
- 21 (b) In the case of corporations that are taxable in this state and taxable in another
22 state, means "net income" as defined in subsection (24) of this section and as
23 allocated and apportioned under KRS 141.120;
- 24 (c) For homeowners' associations as defined in Section 528(c) of the Internal
25 Revenue Code, means "taxable income" as defined in Section 528(d) of the
26 Internal Revenue Code. Notwithstanding the provisions of subsection (21) of
27 this section, the Internal Revenue Code sections referred to in this paragraph

1 shall be those code sections in effect for the applicable tax year; and

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

7 (36) "Taxable year" means the calendar year or fiscal year ending during such calendar
8 year, upon the basis of which net income is computed, and in the case of a return
9 made for a fractional part of a year under the provisions of this chapter or under
10 administrative regulations prescribed by the commissioner, "taxable year" means
11 the period for which the return is made; and

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

15 ➔Section 42. KRS 139.730 is amended to read as follows:

16 (1) In the administration of the sales and use tax, the department may require the filing
17 of reports by any person or class of persons ~~with~~^{having in his or their} possession
18 or custody of information relating to sales of tangible personal property, digital
19 property, or an extended warranty service, the storage, use, or other consumption of
20 which is subject to the tax.

21 (2) Any event coordinator of a festival or similar event shall provide the department
22 with a list of vendors selling at the event any tangible property, digital property,
23 or services listed in Section 3 of this Act.

24 (3) The report shall be filed at the time specified by the department and shall contain
25 such information as the department may require.

26 ➔SECTION 43. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO
27 READ AS FOLLOWS:

(1) Any company whose tax, as provided in KRS 136.320, 136.330, 136.340, 136.350, 136.370, 342.445, or 304.3-270 was five thousand dollars (\$5,000) or more in the previous year shall file a declaration of estimated tax.

(2) The tax due shall be paid in three (3) installments, one-third (1/3) on or before June 1, one-third (1/3) on or before October 1, and the remainder on or before the following March 1.

(3) (a) Any adjustments may be made on or before October 1.

(b) All adjustments shall be made on or before March 1.

(c) If any taxpayer uses the amount of the tax liability for the previous calendar year as the estimate for the declaration, no penalties or interest shall apply to any subsequent adjustments.

(4) All taxes not paid when due may be subject to:

(a) A penalty of five percent (5%) per month, but not more than twenty-five percent (25%) penalty shall be assessed on any one (1) report; and

(b) Interest at the tax interest rate as defined in KRS 131.010(6) from the date the report was due.

➔Section 44. Jailer Canteen Accounts: Notwithstanding KRS 67.0802(6)(a), any compensation resulting from the disposal of real or personal property that was purchased from a canteen account under KRS 441.135 shall be returned to the canteen account from which the real or personal property was originally purchased. All proceeds resulting from the disposal of real or personal property purchased from a canteen account shall be reported to the Interim Joint Committee on Appropriations and Revenue by December 1 of each fiscal year.

➔Section 45. Administrative Fee on Infrastructure for Economic Development Fund Projects: A one-half of one percent administrative fee is authorized to be paid to the Kentucky Infrastructure Authority for the administration of each project funded by the Infrastructure for Economic Development Fund for Coal-Producing Counties and the

1 Infrastructure for Economic Development Fund for Tobacco Counties. These
2 administrative fees shall be paid, upon inception of the project, out of the fund from
3 which the project was allocated.

4 ➔Section 46. Charges for Federal, State, and Local Audits: Any additional
5 expenses incurred by the Auditor of Public Accounts for required audits of Federal Funds
6 shall be charged to the government or agency that is the subject of the audit. The Auditor
7 of Public Accounts receives General Fund appropriations for audits of the statewide
8 systems of personnel and payroll, cash and investments, revenue collection, and the state
9 accounting system. Any expenses incurred by the Auditor of Public Accounts for any
10 other audits shall be charged to the agency that is the subject of such audit. The Auditor
11 of Public Accounts shall maintain a record of all time and expenses for each audit or
12 investigation.

13 Any expenses incurred by the Auditor of Public Accounts for auditing individual
14 governmental entities when mandated by a legislative committee shall be charged to the
15 agency or entity receiving audit services.

16 ➔Section 47. Personnel Board Operating Assessment: Each Agency of the
17 Executive Branch with employees covered by KRS Chapter 18A shall be assessed each
18 fiscal year the amount required for the operation of the Personnel Board. The agency
19 assessment shall be determined by the Secretary of the Finance and Administration
20 Cabinet based on the authorized full-time positions of each agency on July 1 of each year
21 of the biennium. The Secretary of the Finance and Administration Cabinet shall collect
22 the assessment.

23 ➔Section 48. Water Withdrawal Fees: The water withdrawal fees imposed by the
24 Kentucky River Authority shall not be subject to state and local taxes. Notwithstanding
25 KRS 151.710(10), Tier 1 water withdrawal fees shall be used to support the operations of
26 the Authority and for contractual services for water supply and quality studies.

27 ➔Section 49. Urgent Needs School Assistance: If a school district receives an

1 allotment for an Urgent Needs School authorized in 2014 Ky. Acts ch. 117, Part I, A.,
2 28., (5), 2014 Ky. Acts ch. 117, Part I, C., 1., (19)(b), 2016 Ky. Acts ch. 149, Part I, A.,
3 28., (4) and (5), 2018 Ky. Acts ch. 169, Part I, A., 27., (3), or 2021 Ky. Acts ch. 169, Part
4 I, A., 28., (3), and subsequently, as a result of litigation or insurance, receives funds for
5 the original facility, the school district shall reimburse the Commonwealth an amount
6 equal to that received for such purposes. If the litigation or insurance receipts are less than
7 the amount received, the district shall reimburse the Commonwealth an amount equal to
8 that received as a result of litigation or insurance less the district's costs and legal fees in
9 securing the judgment or payment. Any funds received in this manner shall be deposited
10 in the General Fund.

11 ➔Section 50. Premium and Retaliatory Taxes: Notwithstanding KRS 304.17B-
12 021(4)(d), premium taxes collected under KRS Chapter 136 from any insurer and
13 retaliatory taxes collected under KRS 304.3-270 from any insurer shall be credited to the
14 General Fund.

15 ➔Section 51. Monthly Per Employee Health Insurance Benefits Assessment: The
16 Personnel Cabinet shall collect a benefits assessment per month per employee eligible for
17 health insurance coverage in the state group for duly authorized use by the Personnel
18 Cabinet in administering its statutory and administrative responsibilities, including but
19 not limited to administration of the Commonwealth's health insurance program.

20 ➔Section 52. Sections 2 to 26 and 29 to 31 of this Act take effect on January 1,
21 2023.

22 ➔Section 53. Sections 44 to 51 of this Act apply to the fiscal year beginning July
23 1, 2022, and ending June 30, 2023, and the fiscal year beginning July 1, 2023, and ending
24 June 30, 2024, and shall expire at the end of June 30, 2024.

25 ➔Section 54. If any provision of this Act or the application thereof to any person
26 or circumstance is held invalid, the invalidity shall not affect other provisions or
27 applications of this Act that can be given effect without the invalid provision or

1 application, and to this end the provisions of this Act are severable.

2 ➔Section 55. Whereas the Department of Revenue and the Finance and
3 Administration Cabinet are required to procure services necessary to implement the tax
4 amnesty program, which begins on October 1, 2022, an emergency is declared to exist,
5 and Sections 32 to 38 of this Act take effect upon its passage and approval by the
6 Governor or upon its otherwise becoming a law.