

1 AN ACT relating to a motor vehicle usage tax for active duty service members.

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

3 ➔Section 1. KRS 138.460 is amended to read as follows:

- 4 (1) A tax levied upon its retail price at the rate of six percent (6%) shall be paid on the  
5 use in this state of every motor vehicle, except those exempted by KRS 138.470, at  
6 the time and in the manner provided in this section.
- 7 (2) The tax shall be collected by the county clerk or other officer with whom the  
8 vehicle is required to be titled or registered:
- 9 (a) When the fee for titling or registering a motor vehicle the first time it is  
10 offered for titling or registration in this state is collected; or
- 11 (b) Upon the transfer of title or registration of any motor vehicle previously titled  
12 or registered in this state.
- 13 (3) The tax imposed by subsection (1) of this section and collected under subsection (2)  
14 of this section shall not be collected if the owner provides to the county clerk a  
15 signed affidavit of nonhighway use, on a form provided by the department, attesting  
16 that the vehicle will not be used on the highways of the Commonwealth. If this type  
17 of affidavit is provided, the clerk shall, in accordance with the provisions of KRS  
18 Chapter 139, immediately collect the applicable sales and use tax due on the  
19 vehicle.
- 20 (4) (a) The tax collected by the county clerk under this section shall be reported and  
21 remitted to the department on forms prescribed and provided by the  
22 department. The department shall provide each county clerk affidavit forms  
23 which the clerk shall provide to the public free of charge to carry out the  
24 provisions of KRS 138.450 and subsection (3) of this section. The county  
25 clerk shall for his ***or her*** services in collecting the tax be entitled to retain an  
26 amount equal to three percent (3%) of the tax collected and accounted for.
- 27 (b) The sales and use tax collected by the county clerk under subsection (3) of

1           this section shall be reported and remitted to the department on forms which  
 2           the department shall prescribe and provide at no cost. The county clerk shall,  
 3           for his or her services in collecting the tax, be entitled to retain an amount  
 4           equal to three percent (3%) of the tax collected and accounted for.

5           (c) Motor vehicle dealers licensed pursuant to KRS Chapter 190 shall not owe or  
 6           be responsible for the collection of sales and use tax due under subsection (3)  
 7           of this section.

8           (5) A county clerk or other officer shall not title, register or issue any license tags to the  
 9           owner of any motor vehicle subject to the tax imposed by subsection (1) of this  
 10          section or the tax imposed by KRS Chapter 139, when the vehicle is being offered  
 11          for titling or registration for the first time, or transfer the title of any motor vehicle  
 12          previously registered in this state, unless the owner or his *or her* agent pays the tax  
 13          levied under subsection (1) of this section or the tax imposed by KRS Chapter 139,  
 14          if applicable, in addition to any title, registration, or license fees.

15          (6) (a) 1. When a person offers a motor vehicle ~~for~~

16          ~~1. for titling [on or after July 1, 2005; ]or~~

17          ~~2. for] registration [;]~~

18          for the first time in this state which was registered in another state that levied a tax  
 19          substantially identical to the tax levied under this section, the person  
 20          shall be entitled to receive a *nonrefundable* credit against the tax  
 21          imposed by this section equal to the amount of tax paid to the other  
 22          state. *Except as provided in subparagraph 2. of this paragraph,* a credit  
 23          shall not be given under this subsection for taxes paid in another state if  
 24          that state does not grant similar credit for substantially identical taxes  
 25          paid in this state.

26          2. a. When an active duty member of the Armed Forces offers a motor  
 27          vehicle for titling or registration for the first time in this state

1                   which was registered in another state that levied a tax  
2                   substantially identical to the tax levied under this section, the  
3                   active duty member shall be entitled to a nonrefundable credit  
4                   against the tax imposed by this section equal to the amount of  
5                   tax paid to the other state, regardless of whether or not that state  
6                   grants similar credit for substantially identical taxes paid in this  
7                   state.

8                   b. For the purposes of this subparagraph, "active duty" and  
9                   "Armed Forces" have the same meaning as in KRS 141.175.

10           (b) When a resident of this state offers a motor vehicle for registration for the first  
11           time in this state:

12                   1. Upon which the Kentucky sales and use tax was paid by the resident  
13                   offering the motor vehicle for registration at the time of titling under  
14                   subsection (3) of this section; and

15                   2. For which the resident provides proof that the tax was paid;  
16                   a nonrefundable credit shall be given against the tax imposed by subsection  
17                   (1) of this section for the sales and use tax paid.

18       (7) (a) A county clerk or other officer shall not title, register, or issue any license tags  
19           to the owner of any motor vehicle subject to this tax, when the vehicle is then  
20           being offered for titling or registration for the first time, unless the seller or  
21           his or her agent delivers to the county clerk a notarized affidavit, if required,  
22           and available under KRS 138.450 attesting to the total and actual  
23           consideration paid or to be paid for the motor vehicle.

24           (b) If a notarized affidavit is not available, the clerk shall follow the procedures  
25           under KRS 138.450(12) for new vehicles, and KRS 138.450(14) or (15) for  
26           used vehicles.

27           (c) The clerk shall attach the notarized affidavit, if available, or other

1 documentation attesting to the retail price of the vehicle as the department  
2 may prescribe by administrative regulation promulgated under KRS Chapter  
3 13A to the copy of the certificate of registration and application for title  
4 mailed to the department.

5 (8) Notwithstanding the provisions of KRS 138.450, the tax shall not be less than six  
6 dollars (\$6) upon titling or first registration of a motor vehicle in this state, except  
7 where the vehicle is exempt from tax under KRS 138.470 or 154.45-090.

8 (9) Where a motor vehicle is sold by a dealer and the purchaser returns the vehicle for  
9 any reason to the same dealer within sixty (60) days for a vehicle replacement or a  
10 refund of the purchase price, the purchaser shall be entitled to a refund of the  
11 amount of usage tax received by the department as a result of the registration of the  
12 returned vehicle. In the case of a new motor vehicle, the registration of the returned  
13 vehicle shall be canceled and the vehicle shall be considered to have not been  
14 previously registered in Kentucky when resold by the dealer.

15 (10) When a manufacturer refunds the retail purchase price or replaces a new motor  
16 vehicle for the original purchaser within ninety (90) days because of malfunction or  
17 defect, the purchaser shall be entitled to a refund of the amount of motor vehicle  
18 usage tax received by the department as a result of the first titling or registration. A  
19 person shall not be entitled to a refund unless the person has filed with the  
20 department a report from the manufacturer identifying the vehicle that was replaced  
21 and stating the date of replacement.

22 (11) Notwithstanding the time limitations of subsections (9) and (10) of this section,  
23 when a dealer or manufacturer refunds the retail purchase price or replaces a motor  
24 vehicle for the purchaser as a result of formal arbitration or litigation, or, in the case  
25 of a manufacturer, because ordered to do so by a dispute resolution system  
26 established under KRS 367.865 or 16 C.F.R. 703, the purchaser shall be entitled to  
27 a refund of the amount of motor vehicle usage tax received by the department as a

1 result of the titling or registration. A person shall not be entitled to a refund unless  
2 the person files with the department a report from the dealer or manufacturer  
3 identifying the vehicle that was replaced.

4 (12) (a) An owner who has paid the tax levied under this section on a used motor  
5 vehicle or U-Drive-It vehicle based upon the retail price as defined in KRS  
6 138.450(16)(a) shall be entitled to a refund of any tax overpayment, plus  
7 applicable interest as provided in KRS 131.183, if the owner:

- 8 1. Files for a refund with the department within four (4) years from the  
9 date the tax was paid as provided in KRS 134.580; and
- 10 2. Documents to the satisfaction of the department that the condition of the  
11 vehicle merits a retail price lower than the retail price as defined in KRS  
12 138.450(16)(a).

13 (b) The department shall promulgate administrative regulations to develop the  
14 forms and the procedures by which the owner can apply for a refund and  
15 document the condition of the vehicle. The department shall provide the  
16 information to each county clerk.

17 (c) The refund shall be based upon the difference between the tax paid and the tax  
18 determined to be due by the department at the time the owner titled or  
19 registered the vehicle.