

1 AN ACT relating to tax incentives for brownfields redevelopment.

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

3 ➔Section 1. KRS 141.418 is amended to read as follows:

4 (1) As used in this section:

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

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

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

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

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

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

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

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

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

- 1 5. The property owner complied with any information request or
2 administrative subpoena under KRS Chapter 224; ~~and~~
- 3 6. The property owner is not affiliated with any person who is potentially
4 liable for the release of hazardous substances, pollutants, contaminants,
5 petroleum, or petroleum products on the property pursuant to KRS
6 224.1-400, 224.1-405, or 224.60-135, through:
- 7 a. Direct or indirect familial relationship;
- 8 b. Any contractual, corporate, or financial relationship, excluding
9 relationships created by instruments conveying or financing title or
10 by contracts for sale of goods or services; or
- 11 c. Reorganization of a business entity that was potentially liable; **and**
- 12 **7. The property was vacant for three (3) or more years before the**
13 **property owner purchased it.**
- 14 (f) "Expenditures" means payment for work to characterize the extent of
15 contamination, ~~and~~ to remediate the contamination, **and to redevelop the**
16 **contaminated site to place it into productive business use. Expenditures**
17 **shall include the costs identified as "eligible costs" in KRS 154.32-**
18 **010(14)** ~~at a qualifying voluntary environmental remediation property~~; and
- 19 (g) "Taxpayer" means an **owner of qualifying voluntary environmental**
20 **remediation property that is** ~~individual~~ subject to tax under KRS 141.020 or
21 ~~fa corporation subject to tax under KRS]141.040.~~
- 22 (2) (a) There shall be allowed a nonrefundable credit against the tax imposed under
23 KRS 141.020 or 141.040 for taxable years beginning **on or after January 1,**
24 **2018, and prior to January 1, 2022** ~~after December 31, 2004~~, and against the
25 tax imposed by KRS 141.0401 for taxable years beginning **on or after**
26 **January 1, 2018, and prior to January 1, 2022** ~~after December 31, 2006~~, for
27 taxpayer expenditures made at a qualifying voluntary environmental

1 remediation property in order to **redevelop the property and** correct the effect
2 of a release of hazardous substances, pollutants, contaminants, petroleum, or
3 petroleum products~~[on the property]~~ pursuant to KRS 224.1-400, 224.1-405,
4 or 224.60-135, consistent with a corrective action plan approved by the
5 Energy and Environment Cabinet pursuant to KRS 224.1-400, 224.1-405, or
6 224.60-135~~[, and provided the cleanup was not financed through a public
7 grant program or the petroleum storage tank environmental assurance fund].~~

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

12 (3) The maximum total credit for each taxpayer shall **equal one hundred percent**
13 **(100%) of the cost of approved remediation activities, minus any portion of the**
14 **remediation cost financed through a public grant program or the petroleum**
15 **storage tank environmental assurance fund, and fifty percent (50%) of the cost**
16 **for construction and redevelopment of the property. An**~~[not exceed one hundred
17 fifty thousand dollars (\$150,000). For purposes of this section, an] affiliated group
18 of taxpayers required to file a consolidated return under KRS 141.200 shall be
19 treated as one (1) taxpayer.~~

20 (4) ~~[A taxpayer claiming a credit under this section shall submit receipts to the Energy
21 and Environment Cabinet in proof of the expenditures claimed. The Energy and
22 Environment Cabinet shall verify the receipts. After the receipts are verified, the
23 Finance and Administration Cabinet shall notify the taxpayer of eligibility for the
24 credit.~~

25 ~~(5)~~ The credit may be first claimed on the income tax return of the taxpayer filed in the
26 taxable year during which the credit was certified. The **maximum** amount of the
27 allowable credit for any taxable year shall be twenty-five percent (25%) of the

1 maximum credit approved. The credit may be carried forward for fifteen (15)~~ten~~
2 ~~(10)~~ successive taxable years.

3 ~~(5)~~~~(6)~~ If the taxpayer is a pass-through entity, the taxpayer shall apply the credit
4 against the limited liability entity tax imposed by KRS 141.0401, and shall also pass
5 the credit through to its members, partners, or shareholders in the same proportion
6 as the distributive share of income or loss is passed through.

7 **(6) To be eligible for the tax credit authorized in subsection (2) of this section, the**
8 **taxpayer shall:**

9 **(a) Obtain a letter of approval from the local government having jurisdiction**
10 **over the qualifying voluntary environmental remediation property, stating**
11 **the local government's support for the project and its commitment to**
12 **providing a real property tax abatement equal to at least fifty percent (50%)**
13 **of the real tax liability at the site for a minimum of ten (10) years;**

14 **(b) Certify that the taxpayer will create and maintain at least ten (10) new full-**
15 **time jobs at the site, as defined in KRS 154.32-010(18), meeting the wage**
16 **and benefit requirements for enhanced incentives under KRS 154.32-**
17 **020(2)(a); and**

18 **(c) Invest a minimum of one-million dollars (\$1,000,000) in the remediation**
19 **and redevelopment of the property, excluding public grant or assistance**
20 **funds.**

21 **(7) Application for the credits shall be made to the Kentucky Economic Development**
22 **Finance Authority and shall contain the following information:**

23 **(a) A description of the proposed project, including projected costs, start and**
24 **completion dates, documentation supporting eligibility, and any other**
25 **information the authority shall require; and**

26 **(b) The letter of approval from the local government required by subsection**
27 **(6)(a) of this section and documentation of the corrective action plan**

1 approved by the Energy and Environment Cabinet under subsection (2)(a)
2 of this Section.

3 (8) Upon receipt and review of the application, the authority may grant preliminary
4 approval and execute a memorandum of agreement with the taxpayer specifying
5 project targets and approved costs. Once the taxpayer documents that the
6 requirements of the memorandum of agreement have been met, the authority
7 shall grant final approval and execute a tax incentive agreement. The authority
8 shall then notify the department and provide the department with the information
9 necessary to monitor and administer the tax credits. The taxpayer shall submit all
10 documents required to allow the project costs associated with the remediation
11 portion of the project to be monitored and verified by the Energy and
12 Environment Cabinet.

13 (9) The purpose of this credit is to encourage private investment in cleanup and
14 redevelopment of properties blighted by hazardous substances, pollutants, and
15 contamination, including petroleum and petroleum products.

16 (10) (a) In order for the General Assembly to evaluate the fulfillment of the
17 purposes of this section, the department shall submit the following
18 information, related to each taxable year that a credit allowed under this
19 section is claimed on any return filed, including income tax, bank franchise
20 tax, or insurance premiums tax:

21 1. The cumulative amount of tax credits by taxable year claimed by entity
22 type, including:

23 a. Individuals;

24 b. Corporations;

25 c. Financial institutions; and

26 d. Insurance companies;

27 2. The number of returns filed claiming a tax credit for each taxable

- 1 year by entity type;
- 2 3. In the case of a taxpayer other than a corporation, based on the
- 3 mailing address of the return, the total amount of credits claimed by
- 4 county;
- 5 4. In the case of a taxpayer other than a corporation, based on ranges of
- 6 adjusted gross income of no larger than five thousand dollars
- 7 (\$5,000), the total amount of credit claimed for each adjusted gross
- 8 income range by taxable year; and
- 9 5. In the case of a corporation, based on ranges of net income no larger
- 10 than fifty thousand dollars (\$50,000), the total amount of credit
- 11 claimed for each net income range.

12 (b) The report required by paragraph (a) of this subsection shall be submitted

13 to the Interim Joint Committee on Appropriations and Revenue no later

14 than November 1, 2018, and no later than each November 1 thereafter, as

15 long as this credit is claimed on any return processed by the department.

16 ➔Section 2. KRS 131.190 is amended to read as follows:

17 (1)~~[(a)]~~ No present or former commissioner or employee of the department ~~[of~~

18 Revenue], present or former member of a county board of assessment appeals,

19 present or former property valuation administrator or employee, present or former

20 secretary or employee of the Finance and Administration Cabinet, former secretary

21 or employee of the Revenue Cabinet, or any other person, shall intentionally and

22 without authorization inspect or divulge any information acquired by him of the

23 affairs of any person, or information regarding the tax schedules, returns, or reports

24 required to be filed with the department or other proper officer, or any information

25 produced by a hearing or investigation, insofar as the information may have to do

26 with the affairs of the person's business.

27 ~~(2)~~~~[(b)]~~ The prohibition established by subsection (1) ~~[paragraph (a)]~~ of this section

1 shall~~[subsection does]~~ not extend to:

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

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

6 (c)~~[3-]~~ Furnishing any taxpayer or his properly authorized agent with
7 information respecting his own return;

8 (d)~~[4-]~~ Testimony provided by the commissioner or any employee of the
9 department~~[of Revenue]~~ in any court, or the introduction as evidence of
10 returns or reports filed with the department, in an action for violation of state
11 or federal tax laws or in any action challenging state or federal tax laws;

12 (e)~~[5-]~~ Providing an owner of unmined coal, oil or gas reserves, and other
13 mineral or energy resources assessed under KRS 132.820~~[(1)]~~, or owners of
14 surface land under which the unmined minerals lie, factual information about
15 the owner's property derived from third-party returns filed for that owner's
16 property, under the provisions of KRS 132.820~~[(2)]~~, that is used to determine
17 the owner's assessment. This information shall be provided to the owner on a
18 confidential basis, and the owner shall be subject to the penalties provided in
19 KRS 131.990(21). The third-party filer shall be given prior notice of any
20 disclosure of information to the owner that was provided by the third-party
21 filer;

22 (f)~~[6-]~~ Providing to a third-party purchaser pursuant to an order entered in a
23 foreclosure action filed in a court of competent jurisdiction, factual
24 information related to the owner or lessee of coal, oil, gas reserves, or any
25 other mineral resources assessed under KRS 132.820~~[(1)]~~. The department
26 may promulgate an administrative regulation establishing a fee schedule for
27 the provision of the information described in this paragraph~~[subparagraph]~~.

1 Any fee imposed shall not exceed the greater of the actual cost of providing
2 the information or ten dollars (\$10);~~[-or-]~~

3 ~~(g)[7.]~~ Providing information to a licensing agency, the Transportation Cabinet,
4 or the Kentucky Supreme Court under KRS 131.1817;

5 (h) Statistics of gasoline and special fuels gallonage reported to the department
6 under KRS 138.210 to 138.448;

7 (i) Those portions of mine maps submitted by taxpayers to the department
8 pursuant to KRS Chapter 132 for ad valorem tax purposes that depict the
9 boundaries of mined-out parcel areas. These electronic maps shall not be
10 relied upon to determine actual boundaries of mined-out parcel areas.
11 Property boundaries contained in mine maps required under KRS Chapters
12 350 and 352 shall not be construed to constitute land surveying or boundary
13 surveys defined by KRS 322.010 and any administrative regulations;

14 (j) Providing to other state agencies the report, filed with the department by an
15 employer, listing the policy number and the name and address of the
16 employer's workers' compensation insurance carrier under Section 3 of this
17 Act;

18 (k) The name and address of a cigarette stamping agent or distributor and the
19 number of sticks by brand name that have been purchased from a
20 nonparticipating manufacturer and have been stamped with Kentucky
21 stamps by that agent or distributor provided by Section 4 of this Act;

22 (l) A list of taxpayers that owe delinquent taxes or fees administered by the
23 department provided by Section 5 of this Act;

24 (m) Providing any utility gross receipts license tax return information that is
25 necessary to administer the provisions of KRS 160.613 to 160.617 to
26 applicable school districts on a confidential basis;

27 (n) Information made available by the department, for official use only and on

1 *a confidential basis, to the proper officer, agency, board, or commission of*
 2 *this state, any Kentucky city or county, any other state, or the federal*
 3 *government, under reciprocal agreements whereby the department shall*
 4 *receive similar or useful information in return; or*

5 *(o) Providing information to the Legislative Research Commission under:*

- 6 *1. KRS 139.519 for purposes of the sales and use tax refund on building*
 7 *materials used for disaster recovery;*
 8 *2. KRS 141.436 for purposes of the energy efficiency products credits;*
 9 *3. KRS 141.437 for purposes of the ENERGY STAR home and the*
 10 *ENERGY STAR manufactured home credits;*
 11 *4. Section 7 of this Act for purposes of the distilled spirits credit; or*
 12 *5. Section 1 of this Act for purposes of the nonrefundable credit for*
 13 *voluntary environmental remediation.*

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

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

21 ~~(4)} Access to and inspection of information received from the Internal Revenue Service~~
 22 ~~is for department[of Revenue] use only, and is restricted to tax administration~~
 23 ~~purposes.[Notwithstanding the provisions of this section to the contrary,]~~
 24 ~~Information received from the Internal Revenue Service shall not be made available~~
 25 ~~to any other agency of state government, or any county, city, or other state, and shall~~
 26 ~~not be inspected intentionally and without authorization by any present secretary or~~
 27 ~~employee of the Finance and Administration Cabinet, commissioner or employee of~~

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

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

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

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

21 ➔Section 3. KRS 131.135 is amended to read as follows:

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

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

1 ➔Section 4. KRS 131.618 is amended to read as follows:

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

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

22 ➔Section 5. KRS 131.650 is amended to read as follows:

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

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

- 1 (a) The taxes or fees owed remain unpaid at least forty-five (45) days after the
2 dates they became due and payable; and
- 3 (b) A tax lien or judgment lien has been filed of public record against the taxpayer
4 before notice is given under KRS 131.654.
- 5 (3) In the case of listed taxpayers that are business entities, the department~~[of~~
6 ~~Revenue]~~ may also list the names of responsible persons assessed pursuant to KRS
7 136.565, 138.885, 139.185, 141.340, and 142.357 for listed liabilities, who are not
8 protected from publication by subsection (2) of this section, and for whom the
9 requirements of KRS 131.652 are satisfied with regard to the personal assessment.
- 10 (4) Before any list is published under this section, the department shall document that
11 each of the conditions for publication as provided in this section has been satisfied,
12 and that procedures were followed to ensure the accuracy of the list and notice was
13 given to the affected taxpayers.

14 ➔Section 6. KRS 131.990 is amended to read as follows:

- 15 (1) (a) Any person who violates the intentional unauthorized inspection provisions of
16 KRS 131.190(1) shall be fined not more than five hundred dollars (\$500) or
17 imprisoned for not more than six (6) months, or both.
- 18 (b) Any person who violates the provisions of KRS 131.190(1) by divulging
19 confidential taxpayer information shall be fined not more than one thousand
20 dollars (\$1,000) or imprisoned for not more than one (1) year, or both.
- 21 (c) Any person who violates the intentional unauthorized inspection provisions of
22 KRS 131.190~~(3)~~~~(4)~~ shall be fined not more than one thousand dollars
23 (\$1,000) or imprisoned for not more than one (1) year, or both.
- 24 (d) Any person who violates the provisions of KRS 131.190~~(3)~~~~(4)~~ by divulging
25 confidential taxpayer information shall be fined not more than five thousand
26 dollars (\$5,000) or imprisoned for not more than five (5) years, or both.
- 27 (e) Any present secretary or employee of the Finance and Administration Cabinet,

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

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

10 (3) Any person who fails to do any act required or does any act forbidden by KRS
11 131.210 shall be fined not less than ten dollars (\$10) nor more than five hundred
12 dollars (\$500).

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

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

24 (b) Any financial institution that fails or refuses to comply with the provisions of
25 KRS 131.672 and 131.674 within one hundred twenty (120) days after the
26 notification by the department shall, unless the failure is due to reasonable
27 cause as defined in KRS 131.010, forfeit its right to do business within the

1 Commonwealth, unless and until the financial institution is in compliance.
2 Upon notification by the department, the commissioner of the Department of
3 Financial Institutions shall, as applicable, revoke the authority of the financial
4 institution or its agents to do business in the Commonwealth.

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

10 ➔Section 7. KRS 141.389 is amended to read as follows:

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

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

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

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

25 4. For taxable years beginning on or after January 1, 2018, and before
26 December 31, 2018, the credit shall be equal to eighty percent (80%) of
27 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a

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

1 improvements required by subsection (2) of this section shall be completed
2 and specifically associated with the credit allowed on the return.

3 (b) The amount of distilled spirits credit allowed shall be recaptured if the capital
4 improvement associated with the credit is sold or otherwise disposed of prior
5 to the exhaustion of the useful life of the asset for Kentucky depreciation
6 purposes.

7 (c) If the allowed credit is associated with multiple capital improvements, and not
8 all capital improvements are sold or otherwise disposed of, the distilled spirits
9 credit shall be prorated based on the cost of the capital improvement sold over
10 the total cost of all improvements associated with the credit.

11 (5) If the taxpayer is a pass-through entity, the taxpayer may apply the credit against the
12 limited liability entity tax imposed by KRS 141.0401, and shall pass the credit
13 through to its members, partners, or shareholders in the same proportion as the
14 distributive share of income or loss is passed through.

15 (6) The department may promulgate an administrative regulation pursuant to KRS
16 Chapter 13A to implement the allowable credit under this section, require the filing
17 of forms designed by the department, and require specific information for the
18 evaluation of the credit taken by any taxpayer.

19 (7) ~~[Notwithstanding KRS 131.190,]~~ No later than September 1, 2016, and annually
20 thereafter, the department shall report to the Interim Joint Committee on
21 Appropriations and Revenue:

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

24 (b) The amount of credit taken by that taxpayer; and

25 (c) The type of capital improvement made for which the credit is claimed.

26 ➔Section 8. KRS 131.020 is amended to read as follows:

27 (1) The department~~[of Revenue]~~, headed by a commissioner appointed by the secretary

1 with the approval of the Governor, shall be organized into the following functional
2 units:

3 (a) Office of the Commissioner, which shall consist of:

4 1. The Division of Protest Resolution, headed by a division director who
5 shall report directly to the commissioner. The division shall administer
6 the protest functions for the department from office resolution through
7 court action; and

8 2. The Division of Taxpayer Ombudsman, headed by a division director
9 who shall report to the commissioner. The division shall perform those
10 duties set out in KRS 131.083;

11 (b) Office of Tax Policy and Regulation, headed by an executive director who
12 shall report directly to the commissioner. The office shall be responsible for:

- 13 1. Providing oral and written technical advice on Kentucky tax law;
14 2. Drafting proposed tax legislation and regulations;
15 3. Testifying before legislative committees on tax matters;
16 4. Analyzing tax publications;
17 5. Providing expert witness testimony in tax litigation cases;
18 6. Providing consultation and assistance in protested tax cases; and
19 7. Conducting training and education programs;

20 (c) Office of Processing and Enforcement, headed by an executive director who
21 shall report directly to the commissioner. The office shall be responsible for
22 processing documents, depositing funds, collecting debt payments, and
23 coordinating, planning, and implementing a data integrity strategy. The office
24 shall consist of the:

- 25 1. Division of Operations, which shall be responsible for opening all tax
26 returns, preparing the returns for data capture, coordinating the data
27 capture process, depositing receipts, maintaining tax data, and assisting

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

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

1 service centers and the field audit program.

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

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

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

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