

1 AN ACT relating to taxation.

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

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

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

6 (a) **Twelve and two-tenths cents (\$0.122)**~~Thirty one and one half cents (\$0.315)]~~
7 upon each one hundred dollars (\$100) of value of all real property directed to
8 be assessed for taxation;

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

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

- 13 1. Machinery actually engaged in manufacturing;
- 14 2. Commercial radio and television equipment used to receive, capture,
15 produce, edit, enhance, modify, process, store, convey, or transmit audio
16 or video content or electronic signals which are broadcast over the air to
17 an antenna, including radio and television towers used to transmit or
18 facilitate the transmission of the signal broadcast and equipment used to
19 gather or transmit weather information, but excluding telephone and
20 cellular communication towers; and
- 21 3. Tangible personal property which has been certified as a pollution
22 control facility as defined in KRS 224.1-300. In the case of tangible
23 personal property certified as a pollution control facility which is
24 incorporated into a landfill facility, the tangible personal property shall
25 be presumed to remain tangible personal property for purposes of this
26 paragraph if the tangible personal property is being used for its intended
27 purposes;

- 1 (d) Ten cents (\$0.10) upon each one hundred dollars (\$100) of value on the
2 operating property of railroads or railway companies that operate solely within
3 the Commonwealth;
- 4 (e) Five cents (\$0.05) upon each one hundred dollars (\$100) of value of goods
5 held for sale in the regular course of business, which includes:
- 6 1. Machinery and equipment held in a retailer's inventory for sale or lease
7 originating under a floor plan financing arrangement;
- 8 2. Motor vehicles:
- 9 a. Held for sale in the inventory of a licensed motor vehicle dealer,
10 including licensed motor vehicle auction dealers, which are not
11 currently titled and registered in Kentucky and are held on an
12 assignment pursuant to KRS 186A.230; or
- 13 b. That are in the possession of a licensed motor vehicle dealer,
14 including licensed motor vehicle auction dealers, for sale, although
15 ownership has not been transferred to the dealer;
- 16 3. Raw materials, which includes distilled spirits and distilled spirits
17 inventory;
- 18 4. In-process materials, which includes distilled spirits and distilled spirits
19 inventory, held for incorporation in finished goods held for sale in the
20 regular course of business; and
- 21 5. For the January 1, 2020, assessment date only, qualified heavy
22 equipment;
- 23 (f) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of
24 value of all:
- 25 1. Privately owned leasehold interests in industrial buildings, as defined
26 under KRS 103.200, owned and financed by a tax-exempt governmental
27 unit, or tax-exempt statutory authority under the provisions of KRS

- 1 Chapter 103, upon the prior approval of the Kentucky Economic
2 Development Finance Authority, except that the rate shall not apply to
3 the proportion of value of the leasehold interest created through any
4 private financing;
- 5 2. Qualifying voluntary environmental remediation property, provided the
6 property owner has corrected the effect of all known releases of
7 hazardous substances, pollutants, contaminants, petroleum, or petroleum
8 products located on the property consistent with a corrective action plan
9 approved by the Energy and Environment Cabinet pursuant to KRS
10 224.1-400, 224.1-405, or 224.60-135, and provided the cleanup was not
11 financed through a public grant or the petroleum storage tank
12 environmental assurance fund. This rate shall apply for a period of three
13 (3) years following the Energy and Environment Cabinet's issuance of a
14 No Further Action Letter or its equivalent, after which the regular tax
15 rate shall apply;
- 16 3. Tobacco directed to be assessed for taxation;
- 17 4. Unmanufactured agricultural products;
- 18 5. Aircraft not used in the business of transporting persons or property for
19 compensation or hire; and
- 20 6. Federally documented vessels not used in the business of transporting
21 persons or property for compensation or hire, or for other commercial
22 purposes;
- 23 (g) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value
24 of all:
- 25 1. Farm implements and farm machinery owned by or leased to a person
26 actually engaged in farming and used in his farm operations;
- 27 2. Livestock and domestic fowl;

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

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

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

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

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

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

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

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

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

6 ➔Section 2. KRS 138.130 is amended to read as follows:

7 As used in KRS 138.130 to 138.205:

8 (1) (a) "Chewing tobacco" means any leaf tobacco that is not intended to be smoked
9 and includes loose leaf chewing tobacco, plug chewing tobacco, and twist
10 chewing tobacco.

11 (b) "Chewing tobacco" does not include snuff;

12 (2) (a) "Cigarettes" means any roll for smoking made wholly or in part of tobacco, or
13 any substitute for tobacco, irrespective of size or shape and whether or not the
14 tobacco is flavored, adulterated, or mixed with any other ingredient, the
15 wrapper or cover of which is made of paper or any other substance or
16 material, except tobacco.

17 (b) "Cigarettes" does not include reference tobacco products or tobacco
18 products~~[electronic cigarettes]~~;

19 (3) "Cigarette tax" means the group of taxes consisting of:

20 (a) The tax imposed by KRS 138.140(1)(a);

21 (b) The surtax imposed by KRS 138.140(1)(b); and

22 (c) The surtax imposed by KRS 138.140(1)(c);

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

24 (5) "Distributor" means any person within this state in possession of tobacco products
25 for resale within this state on which the tobacco products tax imposed under KRS
26 138.140(2) has not been paid;

27 (6) "Half-pound unit" means a consumer-sized container, pouch, or package:

- 1 (a) Containing at least four (4) ounces but not more than eight (8) ounces of
2 chewing tobacco by net weight;
- 3 (b) Produced by the manufacturer to be sold to consumers as a half-pound unit
4 and not produced to be divided or sold separately; and
- 5 (c) Containing one (1) individual container, pouch, or package;
- 6 (7) "Manufacturer" means any person who manufactures or produces cigarettes or
7 tobacco products within or without this state;
- 8 (8) "Nonresident wholesaler" means any person who purchases cigarettes directly from
9 the manufacturer and maintains a permanent location outside this state where
10 Kentucky cigarette tax evidence is attached or from where Kentucky cigarette tax is
11 reported and paid;
- 12 (9) "Person" means any individual, firm, copartnership, joint venture, association,
13 municipal or private corporation whether organized for profit or not, the
14 Commonwealth of Kentucky or any of its political subdivisions, an estate, trust, or
15 any other group or combination acting as a unit;
- 16 (10) "Pound unit" means a consumer-sized container, pouch, or package:
- 17 (a) Containing more than eight (8) ounces but not more than sixteen (16) ounces
18 of chewing tobacco by net weight;
- 19 (b) Produced by the manufacturer to be sold to consumers as a pound unit and not
20 produced to be divided or sold separately; and
- 21 (c) Containing one (1) individual container, pouch, or package;
- 22 (11) "Reference tobacco products" means tobacco products or cigarettes made by a
23 manufacturer specifically for an accredited state college or university to be held by
24 the college or university until sale or transfer to a laboratory, hospital, medical
25 center, institute, college or university, manufacturer, or other institution;
- 26 (12) "Resident wholesaler" means any person who purchases at least seventy-five
27 percent (75%) of all cigarettes purchased by the wholesaler directly from the

1 manufacturer on which the cigarette tax is unpaid, and who maintains an established
2 place of business in this state where the wholesaler attaches cigarette tax evidence
3 or receives untax-paid cigarettes;

4 (13) "Retail distributor" means a retailer who has obtained a retail distributor's license
5 under KRS 138.195;

6 (14) "Retailer" means any person who sells to a consumer or to any person for any
7 purpose other than resale;

8 (15) "Sale" or "sell" means any transfer for a consideration, exchange, barter, gift, offer
9 for sale, advertising for sale, soliciting an order for cigarettes or tobacco products,
10 and distribution in any manner or by any means whatsoever;

11 (16) "Sale at retail" means a sale to any person for any other purpose other than resale;

12 (17) "Single unit" means a consumer-sized container, pouch, or package:

13 (a) Containing less than four (4) ounces of chewing tobacco by net weight;

14 (b) Produced by the manufacturer to be sold to consumers as a single unit and not
15 produced to be divided or sold separately; and

16 (c) Containing one (1) individual container, pouch, or package;

17 (18) (a) "Snuff" means tobacco that:

18 1. Is finely cut, ground, or powdered; and

19 2. Is not for smoking.

20 (b) "Snuff" includes snus;

21 (19) **"Subjobber"**~~["Sub-jobber"]~~ means any person who purchases cigarettes from a
22 resident wholesaler, nonresident wholesaler, or unclassified acquirer licensed under
23 KRS 138.195 on which the cigarette tax has been paid and makes them available to
24 retailers for resale. No person shall make cigarettes available to retailers for resale
25 unless the person certifies and establishes to the satisfaction of the department that
26 firm arrangements have been made to regularly supply at least five (5) retail
27 locations with Kentucky tax-paid cigarettes for resale in the regular course of

1 business;

2 (20) "Tax evidence" means any stamps, metered impressions, or other indicia prescribed
3 by the department by administrative regulation as a means of denoting the payment
4 of cigarette taxes;

5 (21) "Tobacco products" means:

6 (a) Any smokeless tobacco products, smoking tobacco, chewing tobacco, and any
7 kind or form of tobacco prepared in a manner suitable for chewing, snorting,
8 ~~for~~ smoking, or any combination thereof; ~~both, or~~

9 (b) Any kind or form of tobacco that is suitable to be placed in an individual's oral
10 cavity, except cigarettes; or

11 (c) Vapor products;

12 (22) "Tobacco products tax" means the tax imposed by KRS 138.140(2);

13 (23) "Transporter" means any person transporting untax-paid cigarettes obtained from
14 any source to any destination within this state, other than cigarettes transported by
15 the manufacturer thereof;

16 (24) "Unclassified acquirer" means any person in this state who acquires cigarettes from
17 any source on which the cigarette tax has not been paid, and who is not a person
18 otherwise required to be licensed under KRS 138.195;

19 (25) "Untax-paid cigarettes" means any cigarettes on which the cigarette tax imposed by
20 KRS 138.140 has not been paid;

21 (26) "Untax-paid tobacco products" means any tobacco products on which the tobacco
22 products tax imposed by KRS 138.140 has not been paid; ~~and~~

23 (27) "Vapor products" has the same meaning as in KRS 438.305; and

24 (28) "Vending machine operator" means any person who operates one (1) or more
25 cigarette vending machines.

26 ➔Section 3. KRS 138.140 is amended to read as follows:

27 (1) (a) A tax shall be paid on the sale of cigarettes within the state at a proportionate

1 rate of three cents (\$0.03) on each twenty (20) cigarettes.

2 (b) 1. Effective July 1, 2018 through July 31, 2020, a surtax shall be paid in
3 addition to the tax levied in paragraph (a) of this subsection at a
4 proportionate rate of one dollar and six cents (\$1.06) on each twenty
5 (20) cigarettes; and

6 2. Effective August 1, 2020, a surtax shall be paid in addition to the tax
7 levied in paragraph (a) of this subsection at a proportionate rate of
8 one dollar and fifty-six cents (\$1.56) on each twenty (20) cigarettes.

9 (c) A surtax shall be paid in addition to the tax levied in paragraph (a) of this
10 subsection and in addition to the surtax levied by paragraph (b) of this
11 subsection, at a proportionate rate of one cent (\$0.01) on each twenty (20)
12 cigarettes. The revenues from this surtax shall be deposited in the cancer
13 research institutions matching fund created in KRS 164.043.

14 (d) The surtaxes imposed by paragraphs (b) and (c) of this subsection shall be
15 paid at the time that the tax imposed by paragraph (a) of this subsection is
16 paid.

17 (2) (a) An excise tax is hereby imposed upon every distributor for the privilege of
18 selling tobacco products in this state at the following rates:

19 1. a. Prior to August 1, 2020, upon snuff at the rate of nineteen cents
20 (\$0.19) per each one and one-half (1-1/2) ounces or portion thereof
21 by net weight sold; and

22 b. On or after August 1, 2020, upon snuff at the rate of fifty-one
23 cents (\$0.51) per each one and one-half (1-1/2) ounces or
24 portion thereof by net weight sold;

25 2. a. Prior to August 1, 2020, upon chewing tobacco at the rate of:

26 i. {a-} Nineteen cents (\$0.19) per each single unit sold;

27 ii. {b-} Forty cents (\$0.40) per each half-pound unit sold; or

~~iii. [e.]~~ Sixty-five cents (\$0.65) per each pound unit sold.

If the container, pouch, or package on which the tax is levied contains more than sixteen (16) ounces by net weight, the rate that shall be applied to the unit shall equal the sum of sixty-five cents (\$0.65) plus nineteen cents (\$0.19) for each increment of four (4) ounces or portion thereof exceeding sixteen (16) ounces sold; and

b. On or after August 1, 2020, upon chewing tobacco at the rate of:

i. Fifty-one cents (\$0.51) per each single unit sold;

ii. One dollar and seven cents (\$1.07) per each half-pound unit sold; or

iii. One dollar and seventy-three cents (\$1.73) per each pound unit sold.

If the container, pouch, or package on which the tax is levied contains more than sixteen (16) ounces by net weight, the rate that shall be applied to the unit shall equal the sum of one dollar and seventy-three cents (\$1.73) plus fifty-one cents (\$0.51) for each increment of four (4) ounces or portion thereof exceeding sixteen (16) ounces sold; and

3. **a. Prior to August 1, 2020,** upon tobacco products sold, at the rate of fifteen percent (15%) of the actual price for which the distributor sells tobacco products, except snuff and chewing tobacco, within the Commonwealth; **and**

b. On or after August 1, 2020, upon tobacco products sold, at the rate of forty percent (40%) of the actual price for which the distributor sells tobacco products, except snuff and chewing tobacco, within the Commonwealth.

(b) The net weight posted by the manufacturer on the container, pouch, or

1 package or on the manufacturer's invoice shall be used to calculate the tax due
2 on snuff or chewing tobacco.

3 (c) 1. A retailer located in this state shall not purchase tobacco products for
4 resale to consumers from any person within or outside this state unless
5 that person is a distributor licensed under KRS 138.195(7)(a) or the
6 retailer applies for and is granted a retail distributor's license under KRS
7 138.195(7)(b) for the privilege of purchasing untax-paid tobacco
8 products and remitting the tax as provided in this paragraph.

9 2. A licensed retail distributor of tobacco products shall be subject to the
10 excise tax as follows:

11 a. On purchases of untax-paid snuff, at the same rate levied by
12 paragraph (a)1. of this subsection;

13 b. On purchases of untax-paid chewing tobacco, at the same rates
14 levied by paragraph (a)2. of this subsection; and

15 c. i. Prior to August 1, 2020, on purchases of untax-paid tobacco
16 products, except snuff and chewing tobacco, fifteen percent
17 (15%) of the total purchase price as invoiced by the retail
18 distributor's supplier; and

19 ii. On or after August 1, 2020, on purchases of untax-paid
20 tobacco products, except snuff and chewing tobacco, forty
21 percent (40%) of the total purchase price as invoiced by the
22 retail distributor's supplier.

23 (d) 1. The licensed distributor that first possesses tobacco products for sale to a
24 retailer in this state or for sale to a person who is not licensed under
25 KRS 138.195(7) shall be the distributor liable for the tax imposed by
26 this subsection except as provided in subparagraph 2. of this paragraph.

27 2. A distributor licensed under KRS 138.195(7)(a) may sell tobacco

1 products to another distributor licensed under KRS 138.195(7)(a)
2 without payment of the excise tax. In such case, the purchasing licensed
3 distributor shall be the distributor liable for the tax.

4 3. A licensed distributor or licensed retail distributor shall:
5 a. Identify and display the distributor's or retail distributor's license
6 number on the invoice to the retailer; and
7 b. Identify and display the excise tax separately on the invoice to the
8 retailer. If the excise tax is included as part of the product's sales
9 price, the licensed distributor or licensed retail distributor shall list
10 the total excise tax in summary form by tax type with invoice
11 totals.

12 4. It shall be presumed that the excise tax has not been paid if the licensed
13 distributor or licensed retail distributor does not comply with
14 subparagraph 3. of this paragraph.

15 (e) No tax shall be imposed on tobacco products under this subsection that are not
16 within the taxing power of this state under the Commerce Clause of the
17 United States Constitution.

18 (3) ~~{(a)—}~~The taxes imposed by subsections (1) and (2) of this section:

19 (a)~~{1.}~~ Shall not apply to reference tobacco products; and

20 (b)~~{2.}~~ Shall be paid only once, regardless of the number of times the cigarettes
21 or tobacco products may be sold.

22 ~~{(b)—The taxes imposed by subsection (1)(a) and (b) and subsection (2) of this~~
23 ~~section shall be reduced by:~~

24 1. ~~Fifty percent (50%) on any product as to which a modified risk tobacco~~
25 ~~product order is issued under 21 U.S.C. sec. 387k(g)(1); or~~

26 2. ~~Twenty five percent (25%) for any product as to which a modified risk~~
27 ~~tobacco product order is issued under 21 U.S.C. sec. 387k(g)(2).}~~

- 1 (4) A reference tobacco product shall carry a marking labeling the contents as a
2 research cigarette or a research tobacco product to be used only for tobacco-health
3 research and experimental purposes and shall not be offered for sale, sold, or
4 distributed to consumers.
- 5 (5) The department may prescribe forms and promulgate administrative regulations to
6 execute and administer the provisions of this section.†
- 7 ~~(6) The General Assembly recognizes that increasing taxes on tobacco products should~~
8 ~~reduce consumption, and therefore result in healthier lifestyles for Kentuckians. The~~
9 ~~relative taxes on tobacco products proposed in this section reflect the growing data~~
10 ~~from scientific studies suggesting that although smokeless tobacco poses some~~
11 ~~risks, those health risks are significantly less than the risks posed by other forms of~~
12 ~~tobacco products. Moreover, the General Assembly acknowledges that some in the~~
13 ~~public health community recognize that tobacco harm reduction should be a~~
14 ~~complementary public health strategy regarding tobacco products. Taxing tobacco~~
15 ~~products according to relative risk is a rational tax policy and may well serve the~~
16 ~~public health goal of reducing smoking-related mortality and morbidity and~~
17 ~~lowering health care costs associated with tobacco-related disease.~~
- 18 ~~(7) Any person subject to the taxes imposed under subsections (1) and (2) of this~~
19 ~~section that:~~
- 20 ~~(a) Files an application related to a modified risk tobacco product shall report to the~~
21 ~~department that an application has been filed within thirty (30) days of that filing;~~
22 ~~and~~
- 23 ~~(b) Receives an order authorizing the marketing of a modified risk tobacco product~~
24 ~~shall report to the department that an authorizing order has been received.~~
- 25 ~~(8) Upon receipt of the information required by subsection (7)(b) of this section, the~~
26 ~~department shall reduce the tax imposed on the modified risk tobacco product as~~
27 ~~required by subsection (3)(b) of this section on the first day of the calendar month~~

1 following the expiration of forty five (45) days following receipt of the information
2 required by subsection (7)(b) of this section.]

3 ➔Section 4. KRS 138.143 is amended to read as follows:

4 (1) Every retailer, subjobber[sub-jobber], resident wholesaler, nonresident wholesaler,
5 and unclassified acquirer shall:

6 (a) Take a physical inventory of all cigarettes in packages bearing Kentucky tax
7 stamps, and all unaffixed Kentucky cigarette tax stamps possessed by them or
8 in their control at 11:59 p.m. on July 31, 2020[~~June 30, 2018~~]. Inventory of
9 cigarettes in vending machines may be accomplished by:

- 10 1. Taking an actual physical inventory;
- 11 2. Estimating the cigarettes in vending machines by reporting one-half
12 (1/2) of the normal fill capacity of the machines, as reflected in
13 individual inventory records maintained for vending machines; or
- 14 3. Using a combination of the methods prescribed in subparagraphs 1. and
15 2. of this paragraph;

16 (b) File a return with the department on or before August 10, 2020[~~July 10,~~
17 ~~2018~~], showing the entire wholesale and retail inventories of cigarettes in
18 packages bearing Kentucky tax stamps, and all unaffixed Kentucky cigarette
19 tax stamps possessed by them or in their control at 11:59 p.m. on July 31,
20 2020[~~June 30, 2018~~]; and

21 (c) Pay a floor stock tax at a proportionate rate equal to fifty cents (\$0.50) on each
22 twenty (20) cigarettes in packages bearing a Kentucky tax stamp and
23 unaffixed Kentucky tax stamps in their possession or control at 11:59 p.m. on
24 July 31, 2020[~~June 30, 2018~~].

25 (2) Every retailer and subjobber[sub-jobber] shall:

26 (a) 1. Take a physical inventory of all units of snuff possessed by them or in
27 their control at 11:59 p.m. on July 31, 2020[~~March 31, 2009~~];

- 1 2. File a return with the department on or before August 10, 2020~~[April 10,~~
2 2009], showing the entire inventory of snuff possessed by them or in
3 their control at 11:59 p.m. on July 31, 2020~~[March 31, 2009]~~; and
- 4 3. Pay a floor stock tax for each unit of snuff in their possession or
5 control at 11:59 p.m. on July 31, 2020, at a proportionate rate equal to
6 thirty-two cents (\$0.32)~~[nine and one half cents (\$0.095)]~~ per each one
7 and one-half (1-1/2) ounces or portion thereof~~[on each unit of snuff in~~
8 ~~their possession or control at 11:59 p.m. on March 31, 2009]; [and]~~
- 9 **(b) 1. Take a physical inventory of all units of chewing tobacco possessed by**
10 **them or in their control at 11:59 p.m. on July 31, 2020;**
- 11 2. File a return with the department on or before August 10, 2020,
12 showing the entire inventory of chewing tobacco possessed by them or
13 in their control at 11:59 p.m. on July 31, 2020; and
- 14 3. Pay a floor stock tax for each unit of chewing tobacco in their
15 possession or control at 11:59 p.m. on July 31, 2020, at proportionate
16 rates equal to the following:
- 17 a. Thirty-two cents (\$0.32) on each single unit;
18 b. Sixty-seven cents (\$0.67) on each half-pound unit; or
19 c. One dollar and eight cents (\$1.08) on each pound unit of
20 chewing tobacco; and
- 21 If the container, pouch, or package on which the tax is levied
22 contains more than sixteen (16) ounces by net weight, the rate
23 that shall be applied to the unit shall equal the sum of one dollar
24 and eight cents (\$1.08) plus thirty-two cents (\$0.32) for each
25 increment of four (4) ounces or portion thereof exceeding
26 sixteen (16) ounces sold;
- 27 **(c) 1. a. Take a physical inventory of all vapor products possessed by**

them or in their control at 11:59 p.m. on July 31, 2020;

b. File a return with the department on or before August 10, 2020, showing the entire inventories of vapor products possessed by them or in their control at 11:59 p.m. on July 31, 2020; and

c. Pay a floor stock tax at a proportionate rate equal to forty percent (40%) on the purchase price of the vapor products in their possession or control at 11:59 p.m. on July 31, 2020.

2. a. As used in subparagraph 1. of this paragraph, "purchase price" means the actual amount paid for the vapor products subject to the tax imposed by this subsection.

b. If the retailer or subjobber cannot determine the actual amount paid for each vapor product, the retailer or subjobber may use as the purchase price the amount per unit paid as reflected on the most recent invoice received prior to August 1, 2020, for the same category of vapor product.

c. To prevent double taxation, if the invoice used by the retailer or subjobber to determine the purchase price of the vapor product does not separately state the tax paid by the wholesaler, the retailer or subjobber may reduce the amount paid per unit by fifteen percent (15%); and

(d)(b) — 1. a. Take a physical inventory of all ~~other~~ tobacco products, except vapor products, possessed by them or in their control at 11:59 p.m. on July 31, 2020 ~~March 31, 2009~~;

b. File a return with the department on or before August 10, 2020 ~~April 10, 2009~~, showing the entire inventories of ~~other~~ tobacco products, except vapor products, possessed by them or in their control at 11:59 p.m. on July 31, 2020 ~~March 31, 2009~~; and

- 1 c. Pay a floor stock tax at a proportionate rate equal to twenty-five
2 percent (25%)~~[seven and one-half percent (7.5%)]~~ on the purchase
3 price of~~[other]~~ tobacco products, except vapor products, in their
4 possession or control at 11:59 p.m. on July 31, 2020~~[March 31,~~
5 2009].
- 6 2. a. As used in this paragraph, "purchase price" means the actual
7 amount paid for the~~[other]~~ tobacco products subject to the tax
8 imposed by this paragraph.
- 9 b. If the retailer or subjobber~~[sub-jobber]~~ cannot determine the actual
10 amount paid for each item of~~[other]~~ tobacco product, the retailer
11 or subjobber~~[sub-jobber]~~ may use as the purchase price the
12 amount per unit paid as reflected on the most recent invoice
13 received prior to August 1, 2020~~[April 1, 2009]~~, for the same
14 category of~~[other]~~ tobacco product.
- 15 c. To prevent double taxation, if the invoice used by the retailer or
16 subjobber~~[sub-jobber]~~ to determine the purchase price of the~~[~~
17 ~~other]~~ tobacco product does not separately state the tax paid by the
18 wholesaler, the retailer or subjobber~~[sub-jobber]~~ may reduce the
19 amount paid per unit by fifteen percent (15%)~~[seven and one-half~~
20 percent (7.5%)].
- 21 (3) (a) The taxes imposed by this section may be paid in three (3) installments. The
22 first installment, in an amount equal to at least one-third (1/3) of the total
23 amount due, shall be remitted with the return provided by the department on
24 or before August 10, 2020~~[July 10, 2018]~~. The second installment, in an
25 amount that brings the total amount paid to at least two-thirds (2/3) of the total
26 amount due, shall be remitted on or before September 10, 2020~~[August 10,~~
27 2018]. The third installment, in an amount equal to the remaining balance,

1 shall be remitted on or before October 10, 2020~~[September 10, 2018]~~.

2 (b) Interest shall not be imposed against any outstanding installment payment not
3 yet due from any retailer, subjobber~~[sub-jobber]~~, resident wholesaler,
4 nonresident wholesaler, or unclassified acquirer who files the return and
5 makes payments as required under this section.

6 (c) Any retailer, subjobber~~[sub-jobber]~~, resident wholesaler, nonresident
7 wholesaler, or unclassified acquirer who fails to file a return or make a
8 payment on or before the dates provided in this section shall, in addition to the
9 tax, pay interest at the tax interest rate as defined in KRS 131.010(6) from the
10 date on which the return was required to be filed.

11 ➔Section 5. KRS 138.510 is amended to read as follows:

12 (1) (a) Except as provided in paragraph (d) of this subsection and subsection (3) of
13 this section, an excise tax is imposed on all tracks conducting pari-mutuel
14 wagering on live racing under the jurisdiction of the commission as follows:

15 1. For each track with a daily average live handle of one million two
16 hundred thousand dollars (\$1,200,000) or above, the tax shall be in the
17 amount of three and one-half percent (3.5%) of all money wagered on
18 live races at the track during the fiscal year; and

19 2. For each track with a daily average live handle under one million two
20 hundred thousand dollars (\$1,200,000), the tax shall be one and one-half
21 percent (1.5%) of all money wagered on live races at the track during the
22 fiscal year.

23 (b) Beginning on April 1, 2014, an excise tax is imposed on all tracks conducting
24 pari-mutuel wagering on historical horse races under the jurisdiction of the
25 commission at a rate of one and one-half percent (1.5%) of all money wagered
26 on historical horse races at the track during the fiscal year.

27 (c) Money shall be deducted from the tax paid under paragraphs (a) and (b) of

1 this subsection and deposited as follows:

- 2 1. An amount equal to three-quarters of one percent (0.75%) of all money
3 wagered on live races and historical horse races at the track for
4 Thoroughbred racing shall be deposited in the Thoroughbred
5 development fund established in KRS 230.400;
- 6 2. An amount equal to one percent (1%) of all money wagered on live
7 races and historical horse races at the track for harness racing shall be
8 deposited in the Kentucky standardbred development fund established in
9 KRS 230.770;
- 10 3. An amount equal to one percent (1%) of all money wagered on live
11 races and historical horse races at the track for quarter horse, paint horse,
12 Appaloosa, and Arabian horse racing shall be deposited in the Kentucky
13 quarter horse, paint horse, Appaloosa, and Arabian development fund
14 established by KRS 230.445;
- 15 4. An amount equal to two-tenths of one percent (0.2%) of all money
16 wagered on live races and historical horse races at the track shall be
17 deposited in the equine industry program trust and revolving fund
18 established by KRS 230.550 to support the Equine Industry Program at
19 the University of Louisville, except that the amount deposited from
20 money wagered on historical horse races in any fiscal year shall not
21 exceed six hundred fifty thousand dollars (\$650,000);
- 22 5. a. An amount equal to one-tenth of one percent (0.1%) of all money
23 wagered on live races and historical horse races at the track shall
24 be deposited in a trust and revolving fund to be used for the
25 construction, expansion, or renovation of facilities or the purchase
26 of equipment for equine programs at state universities, except that
27 the amount deposited from money wagered on historical horse

- 1 races in any fiscal year shall not exceed three hundred twenty
2 thousand dollars (\$320,000).
- 3 b. These funds shall not be used for salaries or for operating funds for
4 teaching, research, or administration. Funds allocated under this
5 subparagraph shall not replace other funds for capital purposes or
6 operation of equine programs at state universities.
- 7 c. The Kentucky Council on Postsecondary Education shall serve as
8 the administrative agent and shall establish an advisory committee
9 of interested parties, including all universities with established
10 equine programs, to evaluate proposals and make
11 recommendations for the awarding of funds.
- 12 d. The Kentucky Council on Postsecondary Education may
13 promulgate administrative regulations to establish procedures for
14 administering the program and criteria for evaluating and awarding
15 grants; and
- 16 6. An amount equal to one-tenth of one percent (0.1%) of all money
17 wagered on live races and historical horse races shall be distributed to
18 the commission to support equine drug testing as provided in KRS
19 230.265(3), except that the amount deposited from money wagered on
20 historical horse races in any fiscal year shall not exceed three hundred
21 twenty thousand dollars (\$320,000).
- 22 (d) The excise tax imposed by paragraph (a) of this subsection shall not apply to
23 pari-mutuel wagering on live harness racing at a county fair.
- 24 (e) The excise tax imposed by paragraph (a) of this subsection, and the
25 distributions provided for in paragraph (c) of this subsection, shall apply to
26 money wagered on historical horse races beginning September 1, 2011,
27 through March 31, 2014, and historical horse races shall be considered live

1 racing for purposes of determining the daily average live handle. Beginning
2 April 1, 2014, the tax imposed by paragraph (b) of this subsection shall apply
3 to money wagered on historical horse races.

4 (2) (a) Except as provided in paragraph (c) of this subsection, an excise tax is
5 imposed on:

- 6 1. All tracks conducting telephone account wagering;
- 7 2. All tracks participating as receiving tracks in intertrack wagering under
8 the jurisdiction of the commission; and
- 9 3. All tracks participating as receiving tracks displaying simulcasts and
10 conducting interstate wagering thereon.

11 (b) The tax shall be three percent (3%) of all money wagered on races as provided
12 in paragraph (a) of this subsection during the fiscal year.

13 (c) A noncontiguous track facility approved by the commission on or after
14 January 1, 1999, shall be exempt from the tax imposed under this subsection,
15 if the facility is established and operated by a licensed track which has a total
16 annual handle on live racing of two hundred fifty thousand dollars (\$250,000)
17 or less. The amount of money exempted under this paragraph shall be retained
18 by the noncontiguous track facility, KRS 230.3771 and 230.378
19 notwithstanding.

20 (d) Money shall be deducted from the tax paid under paragraphs (a) and (b) of
21 this subsection as follows:

- 22 1. An amount equal to two percent (2%) of the amount wagered shall be
23 deposited as follows:

- 24 a. In the Thoroughbred development fund established in KRS
25 230.400 if the host track is conducting a Thoroughbred race
26 meeting or the interstate wagering is conducted on a Thoroughbred
27 race meeting;

- 1 b. In the Kentucky standardbred development fund established in
2 KRS 230.770, if the host track is conducting a harness race
3 meeting or the interstate wagering is conducted on a harness race
4 meeting; or
- 5 c. In the Kentucky quarter horse, paint horse, Appaloosa, and
6 Arabian development fund established by KRS 230.445, if the host
7 track is conducting a quarter horse, paint horse, Appaloosa, or
8 Arabian horse race meeting or the interstate wagering is conducted
9 on a quarter horse, paint horse, Appaloosa, or Arabian horse race
10 meeting;
- 11 2. An amount equal to one-twentieth of one percent (0.05%) of the amount
12 wagered shall be allocated to the equine industry program trust and
13 revolving fund established by KRS 230.550 to be used to support the
14 Equine Industry Program at the University of Louisville;
- 15 3. An amount equal to one-tenth of one percent (0.1%) of the amount
16 wagered shall be deposited in a trust and revolving fund to be used for
17 the construction, expansion, or renovation of facilities or the purchase of
18 equipment for equine programs at state universities, as detailed in
19 subsection (1)(c)5. of this section; and
- 20 4. An amount equal to one-tenth of one percent (0.1%) of the amount
21 wagered shall be distributed to the commission to support equine drug
22 testing as provided in KRS 230.265(3).
- 23 (3) If a host track in this state is the location for the conduct of a two (2) day
24 international horse racing event that distributes in excess of a total of twenty million
25 dollars (\$20,000,000) in purses and awards:
- 26 (a) The excise tax imposed by subsection (1)(a) of this section **and the surtax**
27 **imposed by subsection (4) of this section** shall not apply to money wagered at

1 the track on live races conducted at the track during the two (2) day
2 international horse racing event; and

3 (b) Amounts wagered at the track on live races conducted at the track during the
4 two (2) day international horse racing event shall not be included in
5 calculating the daily average live handle for purposes of subsection (1) of this
6 section.

7 (4) (a) Beginning August 1, 2020, in addition to the taxes imposed in subsections
8 (1) and (2) of this section and KRS 138.513, a surtax shall be imposed on
9 all:

10 1. Tracks conducting pari-mutuel wagering on live racing under the
11 jurisdiction of the commission;

12 2. Tracks conducting pari-mutuel wagering on historical horse races
13 under the jurisdiction of the commission;

14 3. Tracks conducting telephone account wagering;

15 4. Tracks participating as receiving tracks in intertrack wagering under
16 the jurisdiction of the commission;

17 5. Tracks participating as receiving tracks displaying simulcasts and
18 conducting interstate wagering thereon; and

19 6. Licensees licensed under KRS 230.260 receiving amounts wagered by
20 Kentucky residents.

21 (b) The surtax imposed under paragraph (a) of this subsection shall be levied
22 upon all amounts wagered at the following rates:

23 1. For tracks conducting pari-mutuel wagering on live racing and
24 remitting tax under subsection (1)(a)2. of this section, two percent
25 (2%);

26 2. For tracks conducting pari-mutuel wagering on historical horse races,
27 two percent (2%);

1 3. For tracks conducting telephone account wagering, one-half of one
2 percent (0.5%);

3 4. For tracks participating as receiving tracks in intertrack wagering,
4 one-half of one percent (0.5%);

5 5. For tracks participating as receiving tracks displaying simulcasts and
6 conducting interstate wagering thereon, one-half of one percent
7 (0.5%); and

8 6. For licensees licensed under KRS 230.260 receiving amounts wagered
9 by Kentucky residents, three percent (3%).

10 (c) All monies collected from the surtax imposed under this subsection shall be
11 deposited in the general fund with no distributions made therefrom.

12 (5) The taxes imposed by this section shall be paid, collected, and administered as
13 provided in KRS 138.530.

14 ➔Section 6. KRS 139.010 is amended to read as follows:

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

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

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

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

22 a. Bowling centers;

23 b. Skating rinks;

24 c. Health spas;

25 d. Swimming pools;

26 e. Tennis courts;

27 f. Weight training facilities;

- 1 g. Fitness and recreational sports centers; and
- 2 h. Golf courses, both public and private;
- 3 regardless of whether the fee paid is per use or in any other form,
- 4 including but not limited to an initiation fee, monthly fee, membership
- 5 fee, or combination thereof.
- 6 (b) "Admissions" does not include:
- 7 1. Any fee paid to enter or participate in a fishing tournament; or
- 8 2. *For transactions occurring on or after July 1, 2019, but before*
- 9 *October 1, 2020,* any fee paid for the use of a boat ramp for the purpose
- 10 of allowing boats to be launched into or hauled out from the water;
- 11 (2) "Advertising and promotional direct mail" means direct mail the primary purpose of
- 12 which is to attract public attention to a product, person, business, or organization, or
- 13 to attempt to sell, popularize, or secure financial support for a product, person,
- 14 business, or organization. As used in this definition, "product" means tangible
- 15 personal property, an item transferred electronically, or a service;
- 16 (3) "Business" includes any activity engaged in by any person or caused to be engaged
- 17 in by that person with the object of gain, benefit, or advantage, either direct or
- 18 indirect;
- 19 (4) "Commonwealth" means the Commonwealth of Kentucky;
- 20 (5) "Department" means the Department of Revenue;
- 21 (6) (a) "Digital audio-visual works" means a series of related images which, when
- 22 shown in succession, impart an impression of motion, with accompanying
- 23 sounds, if any.
- 24 (b) "Digital audio-visual works" includes movies, motion pictures, musical
- 25 videos, news and entertainment programs, and live events.
- 26 (c) "Digital audio-visual works" shall not include video greeting cards, video
- 27 games, and electronic games;

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

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

1 purchaser agrees to pay compensation for the contract and the provider agrees
2 to repair, replace, support, or maintain tangible personal property or digital
3 property according to the terms of the contract if:

- 4 1. The service contract agreement is sold or purchased on or after July 1,
5 2018; and
- 6 2. The tangible personal property or digital property for which the service
7 contract agreement is provided is subject to tax under this chapter or
8 under KRS 138.460.

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

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

16 (b) "Finished artwork" includes:

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

27 (15) (a) "Gross receipts" and "sales price" mean the total amount or consideration,

1 including cash, credit, property, and services, for which tangible personal
2 property, digital property, or services are sold, leased, or rented, valued in
3 money, whether received in money or otherwise, without any deduction for
4 any of the following:

- 5 1. The retailer's cost of the tangible personal property, digital property, or
6 services sold;
- 7 2. The cost of the materials used, labor or service cost, interest, losses, all
8 costs of transportation to the retailer, all taxes imposed on the retailer, or
9 any other expense of the retailer;
- 10 3. Charges by the retailer for any services necessary to complete the sale;
- 11 4. Delivery charges, which are defined as charges by the retailer for the
12 preparation and delivery to a location designated by the purchaser
13 including transportation, shipping, postage, handling, crating, and
14 packing;
- 15 5. Any amount for which credit is given to the purchaser by the retailer,
16 other than credit for tangible personal property or digital property traded
17 when the tangible personal property or digital property traded is of like
18 kind and character to the property purchased and the property traded is
19 held by the retailer for resale; and
- 20 6. The amount charged for labor or services rendered in installing or
21 applying the tangible personal property, digital property, or service sold.

22 (b) "Gross receipts" and "sales price" shall include consideration received by the
23 retailer from a third party if:

- 24 1. The retailer actually receives consideration from a third party and the
25 consideration is directly related to a price reduction or discount on the
26 sale to the purchaser;
- 27 2. The retailer has an obligation to pass the price reduction or discount

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

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

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

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

9 (17) "Industrial processing" includes:

10 (a) Refining;

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

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

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

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

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

19 1. Purchase the property; or

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

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

25 1. A transfer of possession or control of property under a security
26 agreement or deferred payment plan that requires the transfer of title
27 upon completion of the required payments;

- 1 2. A transfer of possession or control of property under an agreement that
2 requires the transfer of title upon completion of the required payments
3 and payment of an option price that does not exceed the greater of one
4 hundred dollars (\$100) or one percent (1%) of the total required
5 payments; or
- 6 3. Providing tangible personal property and an operator for the tangible
7 personal property for a fixed or indeterminate period of time. To qualify
8 for this exclusion, the operator must be necessary for the equipment to
9 perform as designed, and the operator must do more than maintain,
10 inspect, or setup the tangible personal property.
- 11 (c) This definition shall apply regardless of the classification of a transaction
12 under generally accepted accounting principles, the Internal Revenue Code, or
13 other provisions of federal, state, or local law;
- 14 (19) (a) "Machinery for new and expanded industry" means machinery:
- 15 1. Directly used in the manufacturing or industrial processing process;
- 16 2. Which is incorporated for the first time into a plant facility established
17 in this state; and
- 18 3. Which does not replace machinery in the plant facility unless that
19 machinery purchased to replace existing machinery:
- 20 a. Increases the consumption of recycled materials at the plant
21 facility by not less than ten percent (10%);
- 22 b. Performs different functions;
- 23 c. Is used to manufacture a different product; or
- 24 d. Has a greater productive capacity, as measured in units of
25 production, than the machinery being replaced.
- 26 (b) "Machinery for new and expanded industry" does not include repair,
27 replacement, or spare parts of any kind, regardless of whether the purchase of

1 repair, replacement, or spare parts is required by the manufacturer or seller as
2 a condition of sale or as a condition of warranty;

3 (20) "Manufacturing" means any process through which material having little or no
4 commercial value for its intended use before processing has appreciable commercial
5 value for its intended use after processing by the machinery;

6 (21) "Marketplace" means any physical or electronic means through which one (1) or
7 more retailers may advertise and sell tangible personal property, digital property, or
8 services, or lease tangible personal property or digital property, such as a catalog,
9 Internet Web site, or television or radio broadcast, regardless of whether the
10 tangible personal property, digital property, or retailer is physically present in this
11 state;

12 (22) (a) "Marketplace provider" means a person, including any affiliate of the person,
13 that facilitates a retail sale by satisfying subparagraphs 1. and 2. of this
14 paragraph as follows:

- 15 1. The person directly or indirectly:
- 16 a. Lists, makes available, or advertises tangible personal property,
17 digital property, or services for sale by a marketplace retailer in a
18 marketplace owned, operated, or controlled by the person;
- 19 b. Facilitates the sale of a marketplace retailer's product through a
20 marketplace by transmitting or otherwise communicating an offer
21 or acceptance of a retail sale of tangible personal property, digital
22 property, or services between a marketplace retailer and a
23 purchaser in a forum including a shop, store, booth, catalog,
24 Internet site, or similar forum;
- 25 c. Owns, rents, licenses, makes available, or operates any electronic
26 or physical infrastructure or any property, process, method,
27 copyright, trademark, or patent that connects marketplace retailers

- 1 to purchasers for the purpose of making retail sales of tangible
2 personal property, digital property, or services;
- 3 d. Provides a marketplace for making retail sales of tangible personal
4 property, digital property, or services, or otherwise facilitates retail
5 sales of tangible personal property, digital property, or services,
6 regardless of ownership or control of the tangible personal
7 property, digital property, or services, that are the subject of the
8 retail sale;
- 9 e. Provides software development or research and development
10 activities related to any activity described in this subparagraph, if
11 the software development or research and development activities
12 are directly related to the physical or electronic marketplace
13 provided by a marketplace provider;
- 14 f. Provides or offers fulfillment or storage services for a marketplace
15 retailer;
- 16 g. Sets prices for a marketplace retailer's sale of tangible personal
17 property, digital property, or services;
- 18 h. Provides or offers customer service to a marketplace retailer or a
19 marketplace retailer's customers, or accepts or assists with taking
20 orders, returns, or exchanges of tangible personal property, digital
21 property, or services sold by a marketplace retailer; or
- 22 i. Brands or otherwise identifies sales as those of the marketplace
23 provider; and
- 24 2. The person directly or indirectly:
- 25 a. Collects the sales price or purchase price of a retail sale of tangible
26 personal property, digital property, or services;
- 27 b. Provides payment processing services for a retail sale of tangible

1 personal property, digital property, or services;

2 c. Charges, collects, or otherwise receives selling fees, listing fees,
3 referral fees, closing fees, fees for inserting or making available
4 tangible personal property, digital property, or services on a
5 marketplace, or receives other consideration from the facilitation
6 of a retail sale of tangible personal property, digital property, or
7 services, regardless of ownership or control of the tangible
8 personal property, digital property, or services that are the subject
9 of the retail sale;

10 d. Through terms and conditions, agreements, or arrangements with a
11 third party, collects payment in connection with a retail sale of
12 tangible personal property, digital property, or services from a
13 purchaser and transmits that payment to the marketplace retailer,
14 regardless of whether the person collecting and transmitting the
15 payment receives compensation or other consideration in exchange
16 for the service; or

17 e. Provides a virtual currency that purchasers are allowed or required
18 to use to purchase tangible personal property, digital property, or
19 services.

20 (b) "Marketplace provider" includes but is not limited to a person that satisfies the
21 requirements of this subsection through the ownership, operation, or control
22 of a digital distribution service, digital distribution platform, online portal, or
23 application store;

24 (23) "Marketplace retailer" means a seller that makes retail sales through any
25 marketplace owned, operated, or controlled by a marketplace provider;

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

27 1. A sale of tangible personal property or digital property not held or used

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

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

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

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

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

- 21 1. Transactional direct mail that contains personal information specific to
22 the addressee, including but not limited to invoices, bills, statements of
23 account, and payroll advices;
- 24 2. Any legally required mailings, including but not limited to privacy
25 notices, tax reports, and stockholder reports; and
- 26 3. Other nonpromotional direct mail delivered to existing or former
27 shareholders, customers, employees, or agents, including but not limited

1 to newsletters and informational pieces.

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

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

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

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

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

- 19 1. Computer software, including prewritten upgrades, that are not designed
20 and developed by the author or other creator to the specifications of a
21 specific purchaser;
- 22 2. Software designed and developed by the author or other creator to the
23 specifications of a specific purchaser when it is sold to a person other
24 than the original purchaser; or
- 25 3. Any portion of prewritten computer software that is modified or
26 enhanced in any manner, where the modification or enhancement is
27 designed and developed to the specifications of a specific purchaser,

1 unless there is a reasonable, separately stated charge on an invoice or
2 other statement of the price to the purchaser for the modification or
3 enhancement.

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

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

10 (30) (a) "Purchase" means any transfer of title or possession, exchange, barter, lease,
11 or rental, conditional or otherwise, in any manner or by any means
12 whatsoever, of:

- 13 1. Tangible personal property;
- 14 2. An extended warranty service;
- 15 3. Digital property transferred electronically; or
- 16 4. Services included in KRS 139.200;
- 17 for a consideration.

18 (b) "Purchase" includes:

- 19 1. When performed outside this state or when the customer gives a resale
20 certificate, the producing, fabricating, processing, printing, or imprinting
21 of tangible personal property for a consideration for consumers who
22 furnish either directly or indirectly the materials used in the producing,
23 fabricating, processing, printing, or imprinting;
- 24 2. A transaction whereby the possession of tangible personal property or
25 digital property is transferred but the seller retains the title as security for
26 the payment of the price; and
- 27 3. A transfer for a consideration of the title or possession of tangible

1 personal property or digital property which has been produced,
2 fabricated, or printed to the special order of the customer, or of any
3 publication;

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

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

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

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

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

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

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

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

23 3. Every person making more than two (2) retail sales of tangible personal
24 property, digital property, or services included in KRS 139.200 during
25 any twelve (12) month period, including sales made in the capacity of
26 assignee for the benefit of creditors, or receiver or trustee in bankruptcy;

27 4. Any person conducting a race meeting under the provision of KRS

1 Chapter 230, with respect to horses which are claimed during the
2 meeting.

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

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

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

17 b. The purchaser of tangible personal property at the auction directly
18 pays the qualifying entity sponsoring the auction for the property
19 and not the person making the sales at the auction; and

20 c. The qualifying entity, not the person making sales at the auction, is
21 responsible for the collection, control, and disbursement of the
22 auction proceeds.

23 2. If the conditions set forth in subparagraph 1. of this paragraph are met,
24 the qualifying entity sponsoring the auction shall be the retailer for
25 purposes of the sales made at the charitable auction.

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

27 a. Church;

- 1 b. School;
2 c. Civic club; or
3 d. Any other nonprofit charitable, religious, or educational
4 organization;

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

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

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

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

- 12 1. The furnishing of any services included in KRS 139.200;
13 2. Any transfer of title or possession, exchange, barter, lease, or rental,
14 conditional or otherwise, in any manner or by any means whatsoever, of:
15 a. Tangible personal property; or
16 b. Digital property transferred electronically;
17 for a consideration.

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

- 19 1. The producing, fabricating, processing, printing, or imprinting of
20 tangible personal property or digital property for a consideration for
21 purchasers who furnish, either directly or indirectly, the materials used
22 in the producing, fabricating, processing, printing, or imprinting;
23 2. A transaction whereby the possession of tangible personal property or
24 digital property is transferred, but the seller retains the title as security
25 for the payment of the price; and
26 3. A transfer for a consideration of the title or possession of tangible
27 personal property or digital property which has been produced,

1 fabricated, or printed to the special order of the purchaser.

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

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

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

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

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

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

24 (43) "Transferred electronically" means accessed or obtained by the purchaser by means
25 other than tangible storage media; and

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

27 1. Any right or power over tangible personal property or digital property

1 incident to the ownership of that property, or by any transaction in which
2 possession is given, or by any transaction involving digital property
3 where the right of access is granted; or

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

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

7 1. Selling tangible personal property or digital property in the regular
8 course of business; or

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

14 ➔Section 7. KRS 139.200 is amended to read as follows:

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

17 (1) Retail sales of:

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

20 (b) Digital property regardless of whether:

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

24 (2) The furnishing of the following:

25 (a) The rental of any room or rooms, lodgings, campsites, or accommodations
26 furnished by any hotel, motel, inn, tourist camp, tourist cabin, campgrounds,
27 recreational vehicle parks, or any other place in which rooms, lodgings,

- 1 campsites, or accommodations are regularly furnished to transients for a
2 consideration. The tax shall not apply to rooms, lodgings, campsites, or
3 accommodations supplied for a continuous period of thirty (30) days or more
4 to a person;
- 5 (b) Sewer services;
- 6 (c) The sale of admissions, except:
- 7 1. Admissions to racetracks taxed under KRS 138.480;
- 8 2. Admissions to historical sites exempt under KRS 139.482;
- 9 3. Admissions taxed under KRS 229.031;
- 10 4. Admissions charged by nonprofit educational, charitable, or religious
11 institutions exempt under KRS 139.495; and
- 12 5. Admissions charged by nonprofit civic, governmental, or other nonprofit
13 organizations exempt under KRS 139.498;
- 14 (d) Prepaid calling service and prepaid wireless calling service;
- 15 (e) Intrastate, interstate, and international communications services as defined in
16 KRS 139.195, except the furnishing of pay telephone service as defined in
17 KRS 139.195;
- 18 (f) Distribution, transmission, or transportation services for natural gas that is for
19 storage, use, or other consumption in this state, excluding those services
20 furnished:
- 21 1. For natural gas that is classified as residential use as provided in KRS
22 139.470(7); or
- 23 2. To a seller or reseller of natural gas;
- 24 (g) Landscaping services, including but not limited to:
- 25 1. Lawn care and maintenance services;
- 26 2. Tree trimming, pruning, or removal services;
- 27 3. Landscape design and installation services;

- 1 4. Landscape care and maintenance services; and
- 2 5. Snow plowing or removal services;
- 3 (h) Janitorial services, including but not limited to residential and commercial
- 4 cleaning services, and carpet, upholstery, and window cleaning services;
- 5 (i) *For transactions occurring on or after July 1, 2018, but before October 1,*
- 6 *2020,* small animal veterinary services, excluding veterinary services for
- 7 equine, cattle, poultry, swine, sheep, goats, llamas, alpacas, ratite birds,
- 8 buffalo, and cervids;
- 9 (j) Pet care services, including but not limited to grooming and boarding services,
- 10 pet sitting services, and pet obedience training services;
- 11 (k) Industrial laundry services, including but not limited to industrial uniform
- 12 supply services, protective apparel supply services, and industrial mat and rug
- 13 supply services;
- 14 (l) Non-coin-operated laundry and dry cleaning services;
- 15 (m) Linen supply services, including but not limited to table and bed linen supply
- 16 services and nonindustrial uniform supply services;
- 17 (n) Indoor skin tanning services, including but not limited to tanning booth or
- 18 tanning bed services and spray tanning services;
- 19 (o) Non-medical diet and weight reducing services;
- 20 (p) Limousine services, if a driver is provided;~~[-and]~~
- 21 (q) Extended warranty services;
- 22 *(r) Garment alteration services;*
- 23 *(s) Armored car services;*
- 24 *(t) Security consulting services, security guard services, or protection services,*
- 25 *including but not limited to:*
- 26 *1. Personal and property protection;*
- 27 *2. Parking security services;*

- 1 3. Security patrol services;
- 2 4. Security system monitoring services; and
- 3 5. Protective guard services;
- 4 (u) Exterminating and pest control services;
- 5 (v) Marina services, including but not limited to:
 - 6 1. Boat storage or docking services; and
 - 7 2. Repairing, maintaining, or renting houseboats, fishing boats,
 - 8 commercial dining boats, and pleasure boats;
- 9 (w) Non-coin-operated vehicle washing and waxing services;
- 10 (x) Swimming pool cleaning and maintenance services;
- 11 (y) Residential interior decorating services:
 - 12 1. Including but not limited to:
 - 13 a. Planning, designing, and administering projects in interior
 - 14 spaces; and
 - 15 b. Interior fittings and furniture placement;
 - 16 to meet the aesthetic needs of people using the space; and
 - 17 2. Excluding physical renovations that take into consideration:
 - 18 a. Building codes;
 - 19 b. Health and safety regulations;
 - 20 c. Traffic patterns and floor planning; and
 - 21 d. Mechanical and electrical needs; and
- 22 (z) Photography and videography services:
 - 23 1. Including but not limited to:
 - 24 a. Passport photography services;
 - 25 b. Portrait photography services;
 - 26 c. Portrait or video recording services of special events, including
 - 27 weddings, birthdays, and anniversaries;

d. All fees associated with providing onsite location photography and videography sessions;

e. All fees associated with studio photography sessions; and

f. All fees associated with enhancing or modifying pictures or videos;

2. Excluding:

a. Commercial photography services;

b. Medical photography services;

c. Aerial photography services; and

d. Video recording services for legal depositions.

➔Section 8. KRS 139.260 is amended to read as follows:

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

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

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

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

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

(2) A service included in KRS 139.200(2)(a) to (f) unless the person takes from the purchaser a certificate to the effect that the service is purchased through a fully completed certificate of exemption or fully completed Streamlined Sales and Use

1 Tax Agreement Certificate of Exemption in accordance with KRS 139.270; and

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

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

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

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

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

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

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

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

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

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

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

26 (3) Gross receipts from occasional sales of tangible personal property or digital
27 property and the storage, use, or other consumption in this state of tangible personal

1 property or digital property, the transfer of which to the purchaser is an occasional
2 sale;

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

8 (5) Gross receipts from sales of tangible personal property sold through coin-operated
9 bulk vending machines, if the sale amounts to fifty cents (\$0.50) or less, if the
10 retailer is primarily engaged in making the sales and maintains records satisfactory
11 to the department. As used in this subsection, "bulk vending machine" means a
12 vending machine containing unsorted merchandise which, upon insertion of a coin,
13 dispenses the same in approximately equal portions, at random and without
14 selection by the customer;

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

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

- 1 (b) In making the determinations of eligibility, the department shall exempt from
2 taxation all gross receipts derived from sales:
- 3 1. Classified as "residential" by a utility company as defined by applicable
4 tariffs filed with and accepted by the Public Service Commission;
 - 5 2. Classified as "residential" by a municipally owned electric distributor
6 which purchases its power at wholesale from the Tennessee Valley
7 Authority;
 - 8 3. Classified as "residential" by the governing body of a municipally owned
9 electric distributor which does not purchase its power from the
10 Tennessee Valley Authority, if the "residential" classification is
11 reasonably consistent with the definitions of "residential" contained in
12 tariff filings accepted and approved by the Public Service Commission
13 with respect to utilities which are subject to Public Service Commission
14 regulation.
- 15 If the service is classified as residential, use other than for "residential"
16 purposes by the customer shall not negate the exemption;
- 17 (c) The exemption shall not apply if charges for sewer service, water, and fuel are
18 billed to an owner or operator of a multi-unit residential rental facility or
19 mobile home and recreational vehicle park other than residential
20 classification; and
- 21 (d) The exemption shall apply also to residential property which may be held by
22 legal or equitable title, by the entireties, jointly, in common, as a
23 condominium, or indirectly by the stock ownership or membership
24 representing the owner's or member's proprietary interest in a corporation
25 owning a fee or a leasehold initially in excess of ninety-eight (98) years;
- 26 (8) Gross receipts from sales to an out-of-state agency, organization, or institution
27 exempt from sales and use tax in its state of residence when that agency,

1 organization, or institution gives proof of its tax-exempt status to the retailer and the
2 retailer maintains a file of the proof;

3 (9) (a) Gross receipts derived from the sale of, the following tangible personal
4 property to a manufacturer or industrial processor if the property is to be
5 directly used in the manufacturing or industrial processing process of tangible
6 personal property at a plant facility and which will be for sale:

7 1. Materials which enter into and become an ingredient or component part
8 of the manufactured product;

9 2. Other tangible personal property which is directly used in the
10 manufacturing or industrial processing process, if the property has a
11 useful life of less than one (1) year. Specifically these items are
12 categorized as follows:

13 a. Materials. This refers to the raw materials which become an
14 ingredient or component part of supplies or industrial tools exempt
15 under subdivisions b. and c. below;

16 b. Supplies. This category includes supplies such as lubricating and
17 compounding oils, grease, machine waste, abrasives, chemicals,
18 solvents, fluxes, anodes, filtering materials, fire brick, catalysts,
19 dyes, refrigerants, and explosives. The supplies indicated above
20 need not come in direct contact with a manufactured product to be
21 exempt. "Supplies" does not include repair, replacement, or spare
22 parts of any kind; and

23 c. Industrial tools. This group is limited to hand tools such as jigs,
24 dies, drills, cutters, rolls, reamers, chucks, saws, and spray guns
25 and to tools attached to a machine such as molds, grinding balls,
26 grinding wheels, dies, bits, and cutting blades. Normally, for
27 industrial tools to be considered directly used in the manufacturing

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

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

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

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

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

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

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

1 shipping point or purchaser's destination.

2 (a) As used in this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 payment of that state's sales tax at the time of sale; or
- 2 2. Allows residents of Kentucky to remove the vehicle from that state
- 3 within a specific period for subsequent registration and use in Kentucky
- 4 without payment of that state's sales tax;
- 5 (20) **Prior to October 1, 2020,** gross receipts from the sale of a semi-trailer as defined in
- 6 KRS 189.010(12) and trailer as defined in KRS 189.010(17);
- 7 (21) Gross receipts from the collection of:
- 8 (a) Any fee or charge levied by a local government pursuant to KRS 65.760;
- 9 (b) The charge imposed by KRS 65.7629(3);
- 10 (c) The fee imposed by KRS 65.7634; and
- 11 (d) The service charge imposed by KRS 65.7636;
- 12 (22) Gross receipts derived from charges for labor or services to apply, install, repair, or
- 13 maintain tangible personal property directly used in manufacturing or industrial
- 14 processing process, and that is not otherwise exempt under subsection (9) of this
- 15 section or KRS 139.480(10), if the charges for labor or services are separately stated
- 16 on the invoice, bill of sale, or similar document given to purchaser;
- 17 (23) (a) For persons selling services included in KRS 139.200(2)(g) to (q) prior to
- 18 January 1, 2019, gross receipts derived from the sale of those services if the
- 19 gross receipts were less than six thousand dollars (\$6,000) during calendar
- 20 year 2018. When gross receipts from these services exceed six thousand
- 21 dollars (\$6,000) in a calendar year:
- 22 1. All gross receipts over six thousand dollars (\$6,000) are taxable in that
- 23 calendar year; and
- 24 2. All gross receipts are subject to tax in subsequent calendar years **for as**
- 25 **long as the service is taxable.**
- 26 (b) **For persons selling services included in KRS 139.200(2)(r) to (z) prior to**
- 27 **January 1, 2020, gross receipts derived from the sale of those services if the**

gross receipts were less than six thousand dollars (\$6,000) during calendar year 2019. When gross receipts from these services exceed six thousand dollars (\$6,000) in a calendar year:

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

2. All gross receipts are subject to tax in subsequent calendar years for as long as the service is taxable.

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

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

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

2. All gross receipts are subject to tax in subsequent calendar years for as long as the service is taxable.

(b) For persons that first begin making sales of services included in KRS 139.200(2)(r) to (z) on or after January 1, 2020, gross receipts derived from the sale of those services if the gross receipts are less than six thousand dollars (\$6,000) within the first calendar year of operation. When gross receipts from these services exceed six thousand dollars (\$6,000) in a calendar year:

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

1 2. All gross receipts are subject to tax in subsequent calendar years for
2 as long as the service is taxable.

3 (c) The exemption provided in this subsection shall not apply to a person that is
4 also engaged in the business of selling tangible personal property, digital
5 property, or services included in KRS 139.200(2)(a) to (f).

6 ➔Section 10. KRS 139.480 is amended to read as follows:

7 Any other provision of this chapter to the contrary notwithstanding, the terms "sale at
8 retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not
9 include the sale, use, storage, or other consumption of:

10 (1) Locomotives or rolling stock, including materials for the construction, repair, or
11 modification thereof, or fuel or supplies for the direct operation of locomotives and
12 trains, used or to be used in interstate commerce;

13 (2) Coal for the manufacture of electricity;

14 (3) (a) All energy or energy-producing fuels used in the course of manufacturing,
15 processing, mining, or refining and any related distribution, transmission, and
16 transportation services for this energy that are billed to the user, to the extent
17 that the cost of the energy or energy-producing fuels used, and related
18 distribution, transmission, and transportation services for this energy that are
19 billed to the user exceed three percent (3%) of the cost of production.

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

24 (c) A person who performs a manufacturing or industrial processing activity for a
25 fee and does not take ownership of the tangible personal property that is
26 incorporated into, or becomes the product of, the manufacturing or industrial
27 processing activity is a toller. For periods on or after July 1, 2018, the costs of

1 the tangible personal property shall be excluded from the toller's cost of
2 production at a plant facility with tolling operations in place as of July 1,
3 2018.

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

- 7 1. Maintains a binding contract for periods after July 1, 2018, that governs
8 the terms, conditions, and responsibilities with a separate legal entity,
9 which holds title to the tangible personal property that is incorporated
10 into, or becomes the product of, the manufacturing or industrial
11 processing activity;
- 12 2. Maintains accounting records that show the expenses it incurs to fulfill
13 the binding contract that include but are not limited to energy or energy-
14 producing fuels, materials, labor, procurement, depreciation,
15 maintenance, taxes, administration, and office expenses;
- 16 3. Maintains separate payroll, bank accounts, tax returns, and other records
17 that demonstrate its independent operations in the performance of its
18 tolling responsibilities;
- 19 4. Demonstrates one (1) or more substantial business purposes for the
20 tolling operations germane to the overall manufacturing, industrial
21 processing activities, or corporate structure at the plant facility. A
22 business purpose is a purpose other than the reduction of sales tax
23 liability for the purchases of energy and energy-producing fuels; and
- 24 5. Provides information to the department upon request that documents
25 fulfillment of the requirements in subparagraphs 1. to 4. of this
26 paragraph and gives an overview of its tolling operations with an
27 explanation of how the tolling operations relate and connect with all

1 other manufacturing or industrial processing activities occurring at the
2 plant facility.

3 (4) Livestock of a kind the products of which ordinarily constitute food for human
4 consumption, provided the sales are made for breeding or dairy purposes and by or
5 to a person regularly engaged in the business of farming;

6 (5) Poultry for use in breeding or egg production;

7 (6) Farm work stock for use in farming operations;

8 (7) Seeds, the products of which ordinarily constitute food for human consumption or
9 are to be sold in the regular course of business, and commercial fertilizer to be
10 applied on land, the products from which are to be used for food for human
11 consumption or are to be sold in the regular course of business; provided such sales
12 are made to farmers who are regularly engaged in the occupation of tilling and
13 cultivating the soil for the production of crops as a business, or who are regularly
14 engaged in the occupation of raising and feeding livestock or poultry or producing
15 milk for sale; and provided further that tangible personal property so sold is to be
16 used only by those persons designated above who are so purchasing;

17 (8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be
18 used in the production of crops as a business, or in the raising and feeding of
19 livestock or poultry, the products of which ordinarily constitute food for human
20 consumption;

21 (9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the
22 products of which ordinarily constitute food for human consumption;

23 (10) Machinery for new and expanded industry;

24 (11) Farm machinery. As used in this section, the term "farm machinery":

25 (a) Means machinery used exclusively and directly in the occupation of:

26 1. Tilling the soil for the production of crops as a business;

27 2. Raising and feeding livestock or poultry for sale; or

- 1 3. Producing milk for sale;
- 2 (b) Includes machinery, attachments, and replacements therefor, repair parts, and
- 3 replacement parts which are used or manufactured for use on, or in the
- 4 operation of farm machinery and which are necessary to the operation of the
- 5 machinery, and are customarily so used, including but not limited to combine
- 6 header wagons, combine header trailers, or any other implements specifically
- 7 designed and used to move or transport a combine head; and
- 8 (c) Does not include:
- 9 1. Automobiles;
- 10 2. Trucks;
- 11 3. Trailers, except combine header trailers; or
- 12 4. Truck-trailer combinations;
- 13 (12) Tombstones and other memorial grave markers;
- 14 (13) On-farm facilities used exclusively for grain or soybean storing, drying, processing,
- 15 or handling. The exemption applies to the equipment, machinery, attachments,
- 16 repair and replacement parts, and any materials incorporated into the construction,
- 17 renovation, or repair of the facilities;
- 18 (14) On-farm facilities used exclusively for raising poultry or livestock. The exemption
- 19 shall apply to the equipment, machinery, attachments, repair and replacement parts,
- 20 and any materials incorporated into the construction, renovation, or repair of the
- 21 facilities. The exemption shall apply but not be limited to vent board equipment,
- 22 waterer and feeding systems, brooding systems, ventilation systems, alarm systems,
- 23 and curtain systems. In addition, the exemption shall apply whether or not the seller
- 24 is under contract to deliver, assemble, and incorporate into real estate the
- 25 equipment, machinery, attachments, repair and replacement parts, and any materials
- 26 incorporated into the construction, renovation, or repair of the facilities;
- 27 (15) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively

- 1 and directly to:
- 2 (a) Operate farm machinery as defined in subsection (11) of this section;
- 3 (b) Operate on-farm grain or soybean drying facilities as defined in subsection
- 4 (13) of this section;
- 5 (c) Operate on-farm poultry or livestock facilities defined in subsection (14) of
- 6 this section;
- 7 (d) Operate on-farm ratite facilities defined in subsection (23) of this section;
- 8 (e) Operate on-farm llama or alpaca facilities as defined in subsection (25) of this
- 9 section; or
- 10 (f) Operate on-farm dairy facilities;
- 11 (16) Textbooks, including related workbooks and other course materials, purchased for
- 12 use in a course of study conducted by an institution which qualifies as a nonprofit
- 13 educational institution under KRS 139.495. The term "course materials" means only
- 14 those items specifically required of all students for a particular course but shall not
- 15 include notebooks, paper, pencils, calculators, tape recorders, or similar student
- 16 aids;
- 17 (17) **Prior to October 1, 2020,** any property which has been certified as an alcohol
- 18 production facility as defined in KRS 247.910;
- 19 (18) **Prior to October 1, 2020,** aircraft, repair and replacement parts therefor, and
- 20 supplies, except fuel, for the direct operation of aircraft in interstate commerce and
- 21 used exclusively for the conveyance of property or passengers for hire. Nominal
- 22 intrastate use shall not subject the property to the taxes imposed by this chapter;
- 23 (19) **Prior to October 1, 2020,** any property which has been certified as a fluidized bed
- 24 energy production facility as defined in KRS 211.390;
- 25 (20) (a) 1. Any property to be incorporated into the construction, rebuilding,
- 26 modification, or expansion of a blast furnace or any of its components or
- 27 appurtenant equipment or structures as part of an approved supplemental

- 1 project, as defined by KRS 154.26-010; and
- 2 2. Materials, supplies, and repair or replacement parts purchased for use in
- 3 the operation and maintenance of a blast furnace and related carbon
- 4 steel-making operations as part of an approved supplemental project, as
- 5 defined by KRS 154.26-010.
- 6 (b) The exemptions provided in this subsection shall be effective for sales made:
- 7 1. On and after July 1, 2018; and
- 8 2. During the term of a supplemental project agreement entered into
- 9 pursuant to KRS 154.26-090;
- 10 (21) Beginning on October 1, 1986, food or food products purchased for human
- 11 consumption with food coupons issued by the United States Department of
- 12 Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to
- 13 be exempted by the Food Security Act of 1985 in order for the Commonwealth to
- 14 continue participation in the federal food stamp program;
- 15 (22) Machinery or equipment purchased or leased by a business, industry, or
- 16 organization in order to collect, source separate, compress, bale, shred, or otherwise
- 17 handle waste materials if the machinery or equipment is primarily used for recycling
- 18 purposes;
- 19 (23) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and
- 20 production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-
- 21 products, and the following items used in this agricultural pursuit:
- 22 (a) Feed and feed additives;
- 23 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
- 24 (c) On-farm facilities, including equipment, machinery, attachments, repair and
- 25 replacement parts, and any materials incorporated into the construction,
- 26 renovation, or repair of the facilities. The exemption shall apply to incubation
- 27 systems, egg processing equipment, waterer and feeding systems, brooding

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

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

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

12 (a) Feed and feed additives;

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

15 (c) On-farm facilities, including equipment, machinery, attachments, repair and
16 replacement parts, and any materials incorporated into the construction,
17 renovation, or repair of the facilities. The exemption shall apply to waterer
18 and feeding systems, ventilation systems, and alarm systems. In addition, the
19 exemption shall apply whether or not the seller is under contract to deliver,
20 assemble, and incorporate into real estate the equipment, machinery,
21 attachments, repair and replacement parts, and any materials incorporated into
22 the construction, renovation, or repair of the facilities;

23 (26) Baling twine and baling wire for the baling of hay and straw;

24 (27) Water sold to a person regularly engaged in the business of farming and used in the:

25 (a) Production of crops;

26 (b) Production of milk for sale; or

27 (c) Raising and feeding of:

- 1 1. Livestock or poultry, the products of which ordinarily constitute food for
2 human consumption; or
3 2. Ratites, llamas, alpacas, buffalo, cervids or aquatic organisms;
- 4 (28) Buffalos to be used as beasts of burden or in an agricultural pursuit for the
5 production of hides, breeding stock, meat, and buffalo by-products, and the
6 following items used in this pursuit:
- 7 (a) Feed and feed additives;
8 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
9 (c) On-farm facilities, including equipment, machinery, attachments, repair and
10 replacement parts, and any materials incorporated into the construction,
11 renovation, or repair of the facilities. The exemption shall apply to waterer
12 and feeding systems, ventilation systems, and alarm systems. In addition, the
13 exemption shall apply whether or not the seller is under contract to deliver,
14 assemble, and incorporate into real estate the equipment, machinery,
15 attachments, repair and replacement parts, and any materials incorporated into
16 the construction, renovation, or repair of the facilities;
- 17 (29) Aquatic organisms sold directly to or raised by a person regularly engaged in the
18 business of producing products of aquaculture, as defined in KRS 260.960, for sale,
19 and the following items used in this pursuit:
- 20 (a) Feed and feed additives;
21 (b) Water;
22 (c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
23 and
24 (d) On-farm facilities, including equipment, machinery, attachments, repair and
25 replacement parts, and any materials incorporated into the construction,
26 renovation, or repair of the facilities and, any gasoline, special fuels, liquefied
27 petroleum gas, or natural gas used to operate the facilities. The exemption

1 shall apply, but not be limited to: waterer and feeding systems; ventilation,
2 aeration, and heating systems; processing and storage systems; production
3 systems such as ponds, tanks, and raceways; harvest and transport equipment
4 and systems; and alarm systems. In addition, the exemption shall apply
5 whether or not the seller is under contract to deliver, assemble, and
6 incorporate into real estate the equipment, machinery, attachments, repair and
7 replacement parts, and any materials incorporated into the construction,
8 renovation, or repair of the facilities;

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

- 12 (a) Feed and feed additives;
- 13 (b) Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and
- 14 (c) On-site facilities, including equipment, machinery, attachments, repair and
15 replacement parts, and any materials incorporated into the construction,
16 renovation, or repair of the facilities. In addition, the exemption shall apply
17 whether or not the seller is under contract to deliver, assemble, and
18 incorporate into real estate the equipment, machinery, attachments, repair and
19 replacement parts, and any materials incorporated into the construction,
20 renovation, or repair of the facilities;

21 (31) **Prior to October 1, 2020:**

- 22 (a) Repair or replacement parts for the direct operation or maintenance of a motor
23 vehicle, including any towed unit, used exclusively in interstate commerce for
24 the conveyance of property or passengers for hire, provided the motor vehicle
25 is licensed for use on the highway and its declared gross vehicle weight with
26 any towed unit is forty-four thousand and one (44,001) pounds or greater.
27 Nominal intrastate use shall not subject the property to the taxes imposed by

1 this chapter;

2 (b) Repair or replacement parts for the direct operation and maintenance of a
3 motor vehicle operating under a charter bus certificate issued by the
4 Transportation Cabinet under KRS Chapter 281, or under similar authority
5 granted by the United States Department of Transportation; and

6 (c) For the purposes of this subsection, "repair or replacement parts" means tires,
7 brakes, engines, transmissions, drive trains, chassis, body parts, and their
8 components. "Repair or replacement parts" shall not include fuel, machine
9 oils, hydraulic fluid, brake fluid, grease, supplies, or accessories not essential
10 to the operation of the motor vehicle itself, except when sold as part of the
11 assembled unit, such as cigarette lighters, radios, lighting fixtures not
12 otherwise required by the manufacturer for operation of the vehicle, or tool or
13 utility boxes; and

14 (32) Food donated by a retail food establishment or any other entity regulated under KRS
15 217.127 to a nonprofit organization for distribution to the needy.

16 ➔Section 11. KRS 140.130 is amended to read as follows:

17 (1) In addition to the inheritance tax levied under KRS 140.010~~hereinbefore imposed~~,
18 an estate tax is hereby levied on all estates equal to the amount by which the credits
19 for state death taxes allowable under the federal tax law as it was in effect on
20 January 1, 2003, and without any scheduled increases in the unified credit
21 provided in 26 U.S.C. sec. 2010, in effect on January 2, 2001, or thereafter,
22 exceeds the tax levied under KRS 140.010, less the discount allowed under KRS
23 140.210, if taken by the taxpayer. The estate~~Said~~ tax shall be payable at the same
24 time and in the same manner as the inheritance taxes levied by this chapter.

25 (2) In the case of resident decedents and nonresident decedents over part of whose
26 estates Kentucky has tax jurisdiction the estate tax shall be computed as follows:

27 (a) The ratio which that part of the net estate over which Kentucky has

1 jurisdiction for estate tax purposes bears to the total net estate wherever
2 located shall be ascertained.

3 (b) The total maximum offset for state succession taxes allowed under the
4 provisions of the federal estate tax law shall be multiplied by the ascertained
5 ratio to determine the offset allocable to this state.

6 (c) The estate tax levied by this section shall equal the amount, if any, by which
7 the offset allocable to this state shall exceed the inheritance taxes under KRS
8 140.010, less the discount allowed under KRS 140.210, if taken by the
9 taxpayer.

10 (3) All administrative provisions of this chapter, to the extent that they are applicable,
11 shall be available for the enforcement of this section and KRS 140.140.

12 ➔Section 12. KRS 141.010 is amended to read as follows:

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

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

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

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

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

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

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

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

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

7 2. For the purposes of this paragraph:

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

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

18 (c) The real estate investment trust is not owned by another real estate investment
19 trust;

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

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

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

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

26 (7) "Doing business in this state" includes but is not limited to:

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

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

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

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

17 (9) "Employer" has the same meaning as in Section 3401(d) of the Internal Revenue
18 Code;

19 (10) "Fiduciary" has the same meaning as in Section 7701(a)(6) of the Internal Revenue
20 Code;

21 (11) "Financial institution" means:

22 (a) A national bank organized as a body corporate and existing or in the process
23 of organizing as a national bank association pursuant to the provisions of the
24 National Bank Act, 12 U.S.C. secs. 21 et seq., in effect on December 31,
25 1997, exclusive of any amendments made subsequent to that date;

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

- 1 (c) Any corporation organized under the provisions of 12 U.S.C. secs. 611 to 631,
2 in effect on December 31, 1997, exclusive of any amendments made
3 subsequent to that date, or any corporation organized after December 31,
4 1997, that meets the requirements of 12 U.S.C. secs. 611 to 631, in effect on
5 December 31, 1997; or
- 6 (d) Any agency or branch of a foreign depository as defined in 12 U.S.C. sec.
7 3101, in effect on December 31, 1997, exclusive of any amendments made
8 subsequent to that date, or any agency or branch of a foreign depository
9 established after December 31, 1997, that meets the requirements of 12 U.S.C.
10 sec. 3101 in effect on December 31, 1997;
- 11 (12) "Fiscal year" has the same meaning as in Section 7701(a)(24) of the Internal
12 Revenue Code;
- 13 (13) "Gross income":
- 14 (a) In the case of taxpayers other than corporations, has the same meaning as in
15 Section 61 of the Internal Revenue Code; and
- 16 (b) In the case of corporations, means the amount calculated in KRS 141.039;
- 17 (14) "Individual" means a natural person;
- 18 (15) "Internal Revenue Code" means:
- 19 (a) For taxable years beginning on or after January 1, 2018, but before January 1,
20 2019, the Internal Revenue Code in effect on December 31, 2017, including
21 the provisions contained in Pub. L. No. 115-97 apply to the same taxable year
22 as the provisions apply for federal purposes, exclusive of any amendments
23 made subsequent to that date, other than amendments that extend provisions
24 in effect on December 31, 2017, that would otherwise terminate; and
- 25 (b) For taxable years beginning on or after January 1, 2019, the Internal Revenue
26 Code in effect on December 31, 2018, exclusive of any amendments made
27 subsequent to that date, other than amendments that extend provisions in

1 effect on December 31, 2018, that would otherwise terminate;

2 (16) "Limited liability pass-through entity" means any pass-through entity that affords
3 any of its partners, members, shareholders, or owners, through function of the laws
4 of this state or laws recognized by this state, protection from general liability for
5 actions of the entity;

6 (17) "Married individual" shall be determined under Section 7703 of the Internal
7 Revenue Code;

8 (18) "Modified gross income" means the greater of:

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

12 1. Include interest income derived from obligations of sister states and
13 political subdivisions thereof; and

14 2. Include lump-sum pension distributions taxed under the special
15 transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or

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

19 (19)~~[(18)]~~ "Net income":

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

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

23 (20)~~[(19)]~~ "Nonresident" means any individual not a resident of this state;

24 (21)~~[(20)]~~ "Number of withholding exemptions claimed" means the number of
25 withholding exemptions claimed in a withholding exemption certificate in effect
26 under KRS 141.325, except that if no such certificate is in effect, the number of
27 withholding exemptions claimed shall be considered to be zero;

1 ~~(22)~~~~(21)~~ "Part-year resident" means any individual that has established or abandoned
2 Kentucky residency during the calendar year;

3 ~~(23)~~~~(22)~~ "Pass-through entity" means any partnership, S corporation, limited liability
4 company, limited liability partnership, limited partnership, or similar entity
5 recognized by the laws of this state that is not taxed for federal purposes at the
6 entity level, but instead passes to each partner, member, shareholder, or owner their
7 proportionate share of income, deductions, gains, losses, credits, and any other
8 similar attributes;

9 ~~(24)~~~~(23)~~ "Payroll period" has the same meaning as in Section 3401(b) of the Internal
10 Revenue Code;

11 ~~(25)~~~~(24)~~ "Person" has the same meaning as in Section 7701(a)(1) of the Internal
12 Revenue Code;

13 ~~(26)~~~~(25)~~ "Resident" means an individual domiciled within this state or an individual
14 who is not domiciled in this state, but maintains a place of abode in this state and
15 spends in the aggregate more than one hundred eighty-three (183) days of the
16 taxable year in this state;

17 ~~(27)~~~~(26)~~ "S corporation" has the same meaning as in Section 1361(a) of the Internal
18 Revenue Code;

19 ~~(28)~~~~(27)~~ "State" means a state of the United States, the District of Columbia, the
20 Commonwealth of Puerto Rico, or any territory or possession of the United States;

21 ~~(29)~~~~(28)~~ "Taxable net income":

22 (a) In the case of corporations that are taxable in this state, means "net income" as
23 defined in subsection ~~(19)~~~~(18)~~ of this section;

24 (b) In the case of corporations that are taxable in this state and taxable in another
25 state, means "net income" as defined in subsection ~~(19)~~~~(18)~~ of this section
26 and as allocated and apportioned under KRS 141.120;

27 (c) For homeowners' associations as defined in Section 528(c) of the Internal

1 Revenue Code, means "taxable income" as defined in Section 528(d) of the
2 Internal Revenue Code. Notwithstanding the provisions of subsection (15) of
3 this section, the Internal Revenue Code sections referred to in this paragraph
4 shall be those code sections in effect for the applicable tax year; and

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

10 ~~(30)~~~~(29)~~ "Taxable year" means the calendar year or fiscal year ending during such
11 calendar year, upon the basis of which net income is computed, and in the case of a
12 return made for a fractional part of a year under the provisions of this chapter or
13 under administrative regulations prescribed by the commissioner, "taxable year"
14 means the period for which the return is made;~~and~~

15 **(31) "Unmarried individual" means any person who is not a married individual; and**

16 ~~(32)~~~~(30)~~ "Wages" has the same meaning as in Section 3401(a) of the Internal Revenue
17 Code and includes other income subject to withholding as provided in Section
18 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code.

19 ➔Section 13. KRS 141.019 is amended to read as follows:

20 For taxable years beginning on or after January 1, 2018, in the case of taxpayers other
21 than corporations:

22 (1) Adjusted gross income shall be calculated by subtracting from the gross income of
23 those taxpayers the deductions allowed individuals by Section 62 of the Internal
24 Revenue Code and adjusting as follows:

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

27 (b) Exclude income from supplemental annuities provided by the Railroad

- 1 Retirement Act of 1937 as amended and which are subject to federal income
2 tax by Pub. L. No. 89-699;
- 3 (c) Include interest income derived from obligations of sister states and political
4 subdivisions thereof;
- 5 (d) Exclude employee pension contributions picked up as provided for in KRS
6 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610,
7 and 161.540 upon a ruling by the Internal Revenue Service or the federal
8 courts that these contributions shall not be included as gross income until such
9 time as the contributions are distributed or made available to the employee;
- 10 (e) Exclude Social Security and railroad retirement benefits subject to federal
11 income tax;
- 12 (f) Exclude any money received because of a settlement or judgment in a lawsuit
13 brought against a manufacturer or distributor of "Agent Orange" for damages
14 resulting from exposure to Agent Orange by a member or veteran of the
15 Armed Forces of the United States or any dependent of such person who
16 served in Vietnam;
- 17 (g) 1. a. For taxable years beginning after December 31, 2005, but before
18 January 1, 2018, exclude up to forty-one thousand one hundred ten
19 dollars (\$41,110) of total distributions from pension plans, annuity
20 contracts, profit-sharing plans, retirement plans, or employee
21 savings plans; and
- 22 b. For taxable years beginning on or after January 1, 2018, but before
23 January 1, 2020, exclude up to thirty-one thousand one hundred
24 ten dollars (\$31,110) of total distributions from pension plans,
25 annuity contracts, profit-sharing plans, retirement plans, or
26 employee savings plans.
- 27 2. As used in this paragraph and paragraph (h) of this subsection:

- 1 a. "Annuity contract" has the same meaning as set forth in Section
2 1035 of the Internal Revenue Code;
- 3 b. "Distributions" includes but is not limited to any lump-sum
4 distribution from pension or profit-sharing plans qualifying for the
5 income tax averaging provisions of Section 402 of the Internal
6 Revenue Code; any distribution from an individual retirement
7 account as defined in Section 408 of the Internal Revenue Code;
8 and any disability pension distribution; and
- 9 c. "Pension plans, profit-sharing plans, retirement plans, or employee
10 savings plans" means any trust or other entity created or organized
11 under a written retirement plan and forming part of a stock bonus,
12 pension, or profit-sharing plan of a public or private employer for
13 the exclusive benefit of employees or their beneficiaries and
14 includes plans qualified or unqualified under Section 401 of the
15 Internal Revenue Code and individual retirement accounts as
16 defined in Section 408 of the Internal Revenue Code;

17 **(h) For taxable years beginning on or after January 1, 2020:**

18 **1. For married individuals, exclude up to eighty-two thousand two**
19 **hundred twenty dollars (\$82,220) of total distributions from pension**
20 **plans, annuity contracts, profit-sharing plans, retirement plans, or**
21 **employee savings plans as follows:**

- 22 **a. If computed income is equal to or less than eighty-two thousand**
23 **two hundred twenty dollars (\$82,220), exclude up to eighty-two**
24 **thousand two hundred twenty dollars (\$82,220);**
- 25 **b. If computed income is greater than eighty-two thousand two**
26 **hundred twenty dollars (\$82,220) but less than one hundred**
27 **sixty-four thousand four hundred forty dollars (\$164,440), the**

exclusion shall be reduced one dollar (\$1) for every dollar
computed income exceeds eighty-two thousand two hundred
twenty dollars (\$82,220); or

c. If computed income is one hundred sixty-four thousand four
hundred forty dollars (\$164,440) or greater, the exclusion shall
be zero;

2. For unmarried individuals, exclude up to forty-one thousand one
hundred ten dollars (\$41,110) of total distributions from pension
plans, annuity contracts, profit-sharing plans, retirement plans, or
employee savings plans as follows:

a. If computed income is equal to or less than forty-one thousand
one hundred ten dollars (\$41,110), exclude up to forty-one
thousand one hundred ten dollars (\$41,110);

b. If computed income is greater than forty-one thousand one
hundred ten dollars (\$41,110) but less than eighty-two thousand
two hundred twenty dollars (\$82,220), the exclusion shall be
reduced one dollar (\$1) for every dollar computed income
exceeds forty-one thousand one hundred ten dollars (\$41,110);
or

c. If computed income is eighty-two thousand two hundred twenty
dollars (\$82,220) or greater, the exclusion shall be zero; and

3. As used in this paragraph, "computed income" means the adjusted
gross income, minus capital gains attributable to the sale of a personal
residence, and minus federal or state unemployment benefits,
calculated before applying this paragraph;

(i)(h)} 1. a. Exclude the portion of the distributive share of a
shareholder's net income from an S corporation subject to the

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

- 1 2. Exclude the amounts allowed by KRS 141.0101 for depreciation; and
- 2 ~~(o)(n)~~ Include the amount deducted under 26 U.S.C. sec. 199A; and
- 3 (2) Net income shall be calculated by subtracting from adjusted gross income all the
- 4 deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as
- 5 modified by KRS 141.0101, except:
- 6 (a) Any deduction allowed by 26 U.S.C. sec. 164 for taxes;
- 7 (b) Any deduction allowed by 26 U.S.C. sec. 165 for losses~~, except wagering~~
- 8 ~~losses allowed under Section 165(d) of the Internal Revenue Code~~;
- 9 (c) Any deduction allowed by 26 U.S.C. sec. 213 for medical care expenses;
- 10 (d) Any deduction allowed by 26 U.S.C. sec. 217 for moving expenses;
- 11 (e) Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous
- 12 deduction;
- 13 (f) Any deduction allowed by the Internal Revenue Code for amounts allowable
- 14 under KRS 140.090(1)(h) in calculating the value of the distributive shares of
- 15 the estate of a decedent, unless there is filed with the income return a
- 16 statement that the deduction has not been claimed under KRS 140.090(1)(h);
- 17 (g) Any deduction allowed by 26 U.S.C. sec. 151 for personal exemptions and
- 18 any other deductions in lieu thereof;
- 19 (h) Any deduction allowed for amounts paid to any club, organization, or
- 20 establishment which has been determined by the courts or an agency
- 21 established by the General Assembly and charged with enforcing the civil
- 22 rights laws of the Commonwealth, not to afford full and equal membership
- 23 and full and equal enjoyment of its goods, services, facilities, privileges,
- 24 advantages, or accommodations to any person because of race, color, religion,
- 25 national origin, or sex, except nothing shall be construed to deny a deduction
- 26 for amounts paid to any religious or denominational club, group, or
- 27 establishment or any organization operated solely for charitable or educational

1 purposes which restricts membership to persons of the same religion or
2 denomination in order to promote the religious principles for which it is
3 established and maintained;~~[-and]~~

4 (i) 1. For taxable years beginning on or after January 1, 2020, no limitation
5 shall be placed on the deduction allowed by Section 170 of the
6 Internal Revenue Code, but all remaining itemized deductions as
7 defined in Section 63 of the Internal Revenue Code and modified by
8 this section shall be limited to a maximum amount of two and one-
9 half (2.5) times the standard deduction allowed in Section 14 of this
10 Act.

11 2. For married individuals, if adjusted gross income is:

12 a. Two hundred thousand dollars (\$200,000) or less, the deduction
13 calculated in subparagraph 1. of this paragraph shall be
14 allowed;

15 b. Greater than two hundred thousand dollars (\$200,000) but does
16 not exceed two hundred twenty thousand dollars (\$220,000), the
17 itemized deductions, except for the deduction allowed by Section
18 170 of the Internal Revenue Code, shall be reduced one dollar
19 (\$1) for every dollar adjusted gross income exceeds two hundred
20 thousand dollars (\$200,000); and

21 c. Greater than two hundred twenty thousand dollars (\$220,000),
22 no itemized deductions under this paragraph or standard
23 deduction under paragraph (i) of this subsection shall be
24 allowed, except for the deduction allowed by Section 170 of the
25 Internal Revenue Code.

26 3. For unmarried individuals, if adjusted gross income is:

27 a. One hundred thousand dollars (\$100,000) or less, the deduction

calculated in subparagraph 1. of this paragraph shall be allowed;

b. Greater than one hundred thousand dollars (\$100,000) but does not exceed one hundred ten thousand dollars (\$110,000), the itemized deductions, except for the deduction allowed by Section 170 of the Internal Revenue Code, shall be reduced one dollar (\$1) for every dollar adjusted gross income exceeds one hundred thousand dollars (\$100,000); and

c. Greater than one hundred ten thousand dollars (\$110,000), no itemized deductions under this paragraph or standard deduction under paragraph (j) of this subsection shall be allowed, except for the deduction allowed by Section 170 of the Internal Revenue Code; and

(j) Except as provided in paragraph (i) of this subsection, a taxpayer may elect to claim the standard deduction allowed by KRS 141.081 instead of itemized deductions allowed under paragraph (i) of this subsection~~[pursuant to 26 U.S.C. sec. 63 and as modified by this section].~~

➔Section 14. KRS 141.020 is amended to read as follows:

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

(2) (a) Except as provided in subsection (7) of this section, for taxable years beginning on or after January 1, 2020:

1. For married individuals, the tax shall be determined by applying the following rates to net income:

a. Five percent (5%) of the amount of net income up to seventy-five

1 thousand dollars (\$75,000);

2 b. Six percent (6%) of the amount of net income over seventy-five
 3 thousand dollars (\$75,000) and up to one hundred fifty thousand
 4 dollars (\$150,000);

5 c. Seven percent (7%) of the amount of net income over one
 6 hundred fifty thousand dollars (\$150,000); and

7 2. For unmarried individuals, the tax shall be determined by applying
 8 the following rates to net income:

9 a. Five percent (5%) of the amount of net income up to thirty-seven
 10 thousand five hundred dollars (\$37,500);

11 b. Six percent (6%) of the amount of net income over thirty-seven
 12 thousand five hundred dollars (\$37,500) and up to seventy-five
 13 thousand dollars (\$75,000); and

14 c. Seven percent (7%) of the amount of net income over seventy-
 15 five thousand dollars (\$75,000).

16 (b) For taxable years beginning on or after January 1, 2018, but before January 1,
 17 2020, the tax shall be five percent (5%) of net income.

18 (c) [(b)] For taxable years beginning after December 31, 2004, but [and] before
 19 January 1, 2018, the tax shall be determined by applying the following rates to
 20 net income:

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

23 2. Three percent (3%) of the amount of net income over three thousand
 24 dollars (\$3,000) and up to four thousand dollars (\$4,000);

25 3. Four percent (4%) of the amount of net income over four thousand
 26 dollars (\$4,000) and up to five thousand dollars (\$5,000);

27 4. Five percent (5%) of the amount of net income over five thousand

1 dollars (\$5,000) and up to eight thousand dollars (\$8,000);

2 5. Five and eight-tenths percent (5.8%) of the amount of net income over
3 eight thousand dollars (\$8,000) and up to seventy-five thousand dollars
4 (\$75,000); and

5 6. Six percent (6%) of the amount of net income over seventy-five
6 thousand dollars (\$75,000).

7 (3) (a) The following tax credits, when applicable, shall be deducted from the result
8 obtained under subsection (2) of this section to arrive at the annual tax:

9 1. a. For taxable years beginning before January 1, 2014, twenty dollars
10 (\$20) for an unmarried individual; and

11 b. For taxable years beginning on or after January 1, 2014, and before
12 January 1, 2018, ten dollars (\$10) for an unmarried individual;

13 2. a. For taxable years beginning before January 1, 2014, twenty dollars
14 (\$20) for a married individual filing a separate return and an
15 additional twenty dollars (\$20) for the spouse of taxpayer if a
16 separate return is made by the taxpayer and if the spouse, for the
17 calendar year in which the taxable year of the taxpayer begins, had
18 no Kentucky gross income and is not the dependent of another
19 taxpayer; or forty dollars (\$40) for married persons filing a joint
20 return, provided neither spouse is the dependent of another
21 taxpayer. The determination of marital status for the purpose of
22 this section shall be made in the manner prescribed in Section 153
23 of the Internal Revenue Code; and

24 b. For taxable years beginning on or after January 1, 2014, and before
25 January 1, 2018, ten dollars (\$10) for a married individual filing a
26 separate return and an additional ten dollars (\$10) for the spouse of
27 a taxpayer if a separate return is made by the taxpayer and if the

1 spouse, for the calendar year in which the taxable year of the
2 taxpayer begins, had no Kentucky gross income and is not the
3 dependent of another taxpayer; or twenty dollars (\$20) for married
4 persons filing a joint return, provided neither spouse is the
5 dependent of another taxpayer. The determination of marital status
6 for the purpose of this section shall be made in the manner
7 prescribed in Section 153 of the Internal Revenue Code;

- 8 3. a. For taxable years beginning before January 1, 2014, twenty dollars
9 (\$20) credit for each dependent. No credit shall be allowed for any
10 dependent who has made a joint return with his or her spouse; and
11 b. For taxable years beginning on or after January 1, 2014, and before
12 January 1, 2018, ten dollars (\$10) credit for each dependent. No
13 credit shall be allowed for any dependent who has made a joint
14 return with his or her spouse;
- 15 4. An additional forty dollars (\$40) credit if the taxpayer has attained the
16 age of sixty-five (65) before the close of the taxable year;
- 17 5. An additional forty dollars (\$40) credit for taxpayer's spouse if a
18 separate return is made by the taxpayer and if the taxpayer's spouse has
19 attained the age of sixty-five (65) before the close of the taxable year,
20 and, for the calendar year in which the taxable year of the taxpayer
21 begins, has no Kentucky gross income and is not the dependent of
22 another taxpayer;
- 23 6. An additional forty dollars (\$40) credit if the taxpayer is blind at the
24 close of the taxable year;
- 25 7. An additional forty dollars (\$40) credit for taxpayer's spouse if a
26 separate return is made by the taxpayer and if the taxpayer's spouse is
27 blind, and, for the calendar year in which the taxable year of the taxpayer

1 begins, has no Kentucky gross income and is not the dependent of
2 another taxpayer;

3 8. In the case of a fiduciary, other than an estate, the allowable tax credit
4 shall be two dollars (\$2);

5 9. In the case of an estate, the allowable tax credit shall be ten dollars
6 (\$10); and

7 10. An additional twenty dollars (\$20) credit shall be allowed if the taxpayer
8 is a member of the Kentucky National Guard at the close of the taxable
9 year.

10 (b) In the case of nonresidents, the tax credits allowable under this subsection
11 shall be the portion of the credits that are represented by the ratio of the
12 taxpayer's Kentucky adjusted gross income as determined by KRS 141.019 to
13 the taxpayer's adjusted gross income as defined in Section 62 of the Internal
14 Revenue Code. However, in the case of a married nonresident taxpayer with
15 income from Kentucky sources, whose spouse has no income from Kentucky
16 sources, the taxpayer shall determine allowable tax credit(s) by either:

17 1. The method contained above applied to the taxpayer's tax credit(s),
18 excluding credits for a spouse and dependents; or

19 2. Prorating the taxpayer's tax credit(s) plus the tax credits for the
20 taxpayer's spouse and dependents by the ratio of the taxpayer's Kentucky
21 adjusted gross income as determined by KRS 141.019 to the total joint
22 federal adjusted gross income of the taxpayer and the taxpayer's spouse.

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

1 (4) An annual tax shall be paid for each taxable year as specified in this section upon
2 the entire net income except as herein provided, from all tangible property located
3 in this state, from all intangible property that has acquired a business situs in this
4 state, and from business, trade, profession, occupation, or other activities carried on
5 in this state, by natural persons not residents of this state. A nonresident individual
6 shall be taxable only upon the amount of income received by the individual from
7 labor performed, business done, or from other activities in this state, from tangible
8 property located in this state, and from intangible property which has acquired a
9 business situs in this state; provided, however, that the situs of intangible personal
10 property shall be at the residence of the real or beneficial owner and not at the
11 residence of a trustee having custody or possession thereof. The remainder of the
12 income received by such nonresident shall be deemed nontaxable by this state.

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

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

19 **(7) For taxable years beginning on or after January 1, 2020:**

20 **(a) For married individuals, if adjusted gross income is:**

21 **1. Two hundred thousand dollars (\$200,000) or less, the rates in**
22 **subsection (2)(a) of this section shall apply;**

23 **2. Greater than two hundred thousand dollars (\$200,000) but does not**
24 **exceed three hundred thousand dollars (\$300,000), the tax shall be**
25 **determined by applying the following rates to net income:**

26 **a. Six percent (6%) of the amount of net income up to one hundred**
27 **fifty thousand dollars (\$150,000); and**

- 1 b. Seven percent (7%) of the amount of net income over one
2 hundred fifty thousand dollars (\$150,000); or
3 3. Greater than three hundred thousand dollars (\$300,000), the tax shall
4 be seven percent (7%) of net income.
5 (b) For unmarried individuals, if adjusted gross income is:
6 1. One hundred thousand dollars (\$100,000) or less, the rates in
7 subsection (2)(a) of this section shall apply;
8 2. Greater than one hundred thousand dollars (\$100,000) but does not
9 exceed two hundred thousand dollars (\$200,000), the tax shall be
10 determined by applying the following rates to net income:
11 a. Six percent (6%) of the amount of net income up to seventy-five
12 thousand dollars (\$75,000); and
13 b. Seven percent (7%) of the amount of net income over seventy-
14 five thousand dollars (\$75,000); or
15 3. Greater than two hundred thousand dollars (\$200,000), the tax shall
16 be seven percent (7%) of net income.

17 ➔ Section 15. KRS 141.081 is amended to read as follows:

- 18 (1) For taxable years beginning on or after January 1, 2020, but before January 1,
19 2021:
20 (a) Married individuals~~[An individual, at his election,]~~ may deduct from~~[his]~~
21 adjusted gross income a standard deduction of eight thousand dollars
22 (\$8,000); and
23 (b) Unmarried individuals may deduct from adjusted gross income a standard
24 deduction of four thousand dollars (\$4,000)~~[÷~~
25 ~~(a) Six hundred and fifty dollars (\$650) for taxable years beginning before~~
26 ~~December 31, 1996;~~
27 ~~(b) Nine hundred dollars (\$900) for taxable years beginning after December 31,~~

1 ~~1996, but before December 31, 1997;~~

2 ~~(c) One thousand two hundred dollars (\$1,200) for taxable years beginning after~~
3 ~~December 31, 1997, but before December 31, 1998;~~

4 ~~(d) One thousand five hundred dollars (\$1,500) for taxable years beginning after~~
5 ~~December 31, 1998, but before December 31, 1999;~~

6 ~~(e) One thousand seven hundred dollars (\$1,700) for taxable years beginning after~~
7 ~~December 31, 1999, but before December 31, 2000; and~~

8 ~~(f) The amount calculated under subsection (2) of this section for taxable years~~
9 ~~beginning after December 31, 2000].~~

10 (2) (a) For taxable years beginning on or after January 1, 2021 ~~[December 31, 2000,~~
11 ~~and each taxable year thereafter]~~, the standard deduction for the current
12 taxable year shall be equal to the standard deduction for the prior taxable year
13 multiplied by the greater of:

14 1. The average of the monthly CPI-U figures for the twelve (12)
15 consecutive months ending in and including the July six (6) months
16 prior to the January beginning the current tax year, divided by the
17 average of the monthly CPI-U figures for the twelve (12) months ending
18 in and including the July eighteen (18) months prior to the January
19 beginning the current tax year; or

20 2. One (1).

21 (b) As used in this subsection, a tax year shall be the twelve (12) month period
22 beginning in January and ending in December.

23 (c) As used in this subsection, "CPI-U" means the nonseasonally adjusted United
24 States city average of the Consumer Price Index for all urban consumers for
25 all items, as released by the federal Bureau of Labor Statistics.

26 (3) The standard deduction provided for in this section shall be in lieu of all deductions
27 and shall not be allowed in the case of a taxable year of less than twelve (12)

1 months on account of a change in the accounting period or in the case of a
2 fiduciary.†

3 ~~(4) In the case of a husband and wife living together, the standard deduction provided~~
4 ~~for in this section shall not be allowed to either if the net income of one (1) of the~~
5 ~~spouses is determined without regard to the standard deduction. The determination~~
6 ~~of marital status shall be made in the manner prescribed in Section 153 of the~~
7 ~~Internal Revenue Code.]~~

8 ➔Section 16. KRS 141.066 is amended to read as follows:

9 (1) As used in this section:

10 (a) "Federal poverty level" means the Health and Human Services poverty
11 guidelines updated periodically in the Federal Register by the United States
12 Department of Health and Human Services under the authority of 42 U.S.C.
13 sec. 9902(2) and available on June 30 of the taxable year;

14 (b) "Qualifying dependent" means a qualifying child as defined in the Internal
15 Revenue Code, Section 152(c), and includes a child who lives in the
16 household but cannot be claimed as a dependent if the provisions of Internal
17 Revenue Code Section 152(e)(2) and 152(e)(4) apply;

18 (c) "Qualifying individual" means an individual whose filing status is single or
19 married filing separately if during the taxable year the individual's spouse is
20 not a member of the household;

21 (d) "Qualifying married couple" means a husband and wife living together who
22 file a joint return or separately on a combined return. "Marital status" shall
23 have the same meaning as defined in Section 7703 of the Internal Revenue
24 Code; and

25 (e) "Threshold amount" means:

26 1. For a qualifying individual with no qualifying dependent children, the
27 federal poverty level established for a family unit size of one (1):

- 1 2. For a qualifying individual with one (1) qualifying dependent child or a
- 2 qualifying married couple with no qualifying dependent children, the
- 3 federal poverty level established for a family unit size of two (2);
- 4 3. For a qualifying individual with two (2) qualifying dependent children or
- 5 a qualifying married couple with one (1) qualifying dependent child, the
- 6 federal poverty level established for a family unit size of three (3);
- 7 4. For a qualifying individual with (3) or more qualifying dependent
- 8 children or a qualifying married couple with two (2) or more qualifying
- 9 dependent children, the federal poverty level established for a family
- 10 unit size of four (4).

11 (2) (a) For taxable years beginning before January 1, 2005, a resident individual
 12 whose adjusted gross income does not exceed the amounts set out in
 13 paragraph (c) of this subsection shall be eligible for a nonrefundable "low
 14 income" tax credit. The credit shall be applied against the taxpayer's tax
 15 liability calculated under KRS 141.020, and shall be taken in the order
 16 established by KRS 141.0205.

17 (b) For a husband and wife filing jointly, the "low income" tax credit shall be
 18 computed on the basis of their joint adjusted gross income and shall be
 19 applied against their joint tax liability. For a husband and wife living together,
 20 whether filing separate returns or filing separately on a combined return, the
 21 "low income" credit shall be computed on the basis of their combined adjusted
 22 gross income, except that a separately computed gross income of less than
 23 zero shall be treated as zero, and shall be applied against their combined tax
 24 liability.

25 (c) The "low income" tax credit shall be computed as follows:

26	PERCENT OF TAX	
27	AMOUNT OF ADJUSTED	LIABILITY ALLOWED AS

	GROSS INCOME	LOW INCOME TAX CREDIT
1		
2	not over \$5,000	100%
3	over \$ 5,000 but not over \$10,000	50%
4	over \$10,000 but not over \$15,000	25%
5	over \$15,000 but not over \$20,000	15%
6	over \$20,000 but not over \$25,000	5%
7	over \$25,000	-0-

- 8 (3) (a) 1. For taxable years beginning after December 31, 2004, *but before*
9 *January 1, 2020*, qualifying taxpayers whose modified gross income is
10 below one hundred thirty-three percent (133%) of the threshold amount
11 shall be entitled to a nonrefundable family size tax credit; and
12 2. For taxable years beginning on or after January 1, 2020, qualifying
13 taxpayers whose modified gross income is below one hundred thirty-
14 eight percent (138%) of the threshold amount shall be entitled to a
15 nonrefundable family size tax credit.

16 The family size tax credit shall be applied against the taxpayer's tax liability
17 calculated under KRS 141.020. The family size tax credit shall not reduce the
18 taxpayer's tax liability below zero.

- 19 (b) For qualifying taxpayers whose modified gross income is equal to or below
20 one hundred percent (100%) of the threshold amount, the family size tax
21 credit shall be equal to the taxpayer's tax liability.

- 22 (c) For taxable years beginning after December 31, 2004, but before January 1,
23 2020, qualifying taxpayers whose modified gross income exceeds the
24 threshold amount but is below one hundred thirty-three percent (133%) of the
25 threshold amount, the family size tax credit shall be equal to the amount of the
26 taxpayer's individual income tax liability multiplied by a percentage as
27 follows:

- 1 1. If modified gross income is above one hundred percent (100%) but less
2 than or equal to one hundred four percent (104%) of the threshold
3 amount, the credit percentage shall be ninety percent (90%);
- 4 2. If modified gross income is above one hundred four percent (104%) but
5 less than or equal to one hundred eight percent (108%) of the threshold
6 amount, the credit percentage shall be eighty percent (80%);
- 7 3. If modified gross income is above one hundred eight percent (108%) but
8 less than or equal to one hundred twelve percent (112%) of the threshold
9 amount, the credit percentage shall be seventy percent (70%);
- 10 4. If modified gross income is above one hundred twelve percent (112%)
11 but less than or equal to one hundred sixteen percent (116%) of the
12 threshold amount, the credit percentage shall be sixty percent (60%);
- 13 5. If modified gross income is above one hundred sixteen percent (116%)
14 but less than or equal to one hundred twenty percent (120%) of the
15 threshold amount, the credit percentage shall be fifty percent (50%);
- 16 6. If modified gross income is above one hundred twenty percent (120%)
17 but less than or equal to one hundred twenty-four percent (124%) of the
18 threshold amount, the credit percentage shall be forty percent (40%);
- 19 7. If modified gross income is above one hundred twenty-four percent
20 (124%) but less than or equal to one hundred twenty-seven percent
21 (127%) of the threshold amount, the credit percentage shall be thirty
22 percent (30%);
- 23 8. If modified gross income is above one hundred twenty-seven percent
24 (127%) but less than or equal to one hundred thirty percent (130%) of
25 the threshold amount, the credit percentage shall be twenty percent
26 (20%);
- 27 9. If modified gross income is above one hundred thirty percent (130%) but

1 less than or equal to one hundred thirty-three percent (133%) of the
2 threshold amount, the credit percentage shall be ten percent (10%); or

3 10. If modified gross income is above one hundred thirty-three percent
4 (133%) of the threshold amount, the credit percentage shall be zero.

5 (d) For taxable years beginning on or after January 1, 2020, qualifying
6 taxpayers whose modified gross income exceeds the threshold amount but is
7 below one hundred thirty-eight percent (138%) of the threshold amount, the
8 family size tax credit shall be equal to the amount of the taxpayer's
9 individual income tax liability multiplied by a percentage as follows:

10 1. If modified gross income is above one hundred percent (100%) but
11 less than or equal to one hundred five percent (105%) of the threshold
12 amount, the credit percentage shall be ninety percent (90%);

13 2. If modified gross income is above one hundred five percent (105%)
14 but less than or equal to one hundred ten percent (110%) of the
15 threshold amount, the credit percentage shall be eighty percent (80%);

16 3. If modified gross income is above one hundred ten percent (110%) but
17 less than or equal to one hundred fourteen percent (114%) of the
18 threshold amount, the credit percentage shall be seventy percent
19 (70%);

20 4. If modified gross income is above one hundred fourteen percent
21 (114%) but less than or equal to one hundred eighteen percent (118%)
22 of the threshold amount, the credit percentage shall be sixty percent
23 (60%);

24 5. If modified gross income is above one hundred eighteen percent
25 (118%) but less than or equal to one hundred twenty-two percent
26 (122%) of the threshold amount, the credit percentage shall be fifty
27 percent (50%);

1 6. If modified gross income is above one hundred twenty-two percent
2 (122%) but less than or equal to one hundred twenty-six percent
3 (126%) of the threshold amount, the credit percentage shall be forty
4 percent (40%);

5 7. If modified gross income is above one hundred twenty-six percent
6 (126%) but less than or equal to one hundred thirty percent (130%) of
7 the threshold amount, the credit percentage shall be thirty percent
8 (30%);

9 8. If modified gross income is above one hundred thirty percent (130%)
10 but less than or equal to one hundred thirty-four percent (134%) of
11 the threshold amount, the credit percentage shall be twenty percent
12 (20%);

13 9. If modified gross income is above one hundred thirty-four percent
14 (134%) but less than or equal to one hundred thirty-eight percent
15 (138%) of the threshold amount, the credit percentage shall be ten
16 percent (10%); or

17 10. If modified gross income is above one hundred thirty-eight percent
18 (138%) of the threshold amount, the credit percentage shall be zero.

19 (e) For taxable years beginning on or after January 1, 2019, but before January 1,
20 2021, in addition to the credit calculated under paragraphs (a), (b), ~~and~~ (c),
21 and (d) of this subsection, the income gap credit shall be allowed:

- 22 1. If modified gross income is above one hundred percent (100%) but less
23 than or equal to one hundred four percent (104%) of the threshold
24 amount, the credit shall be in an amount equal to:
- 25 a. Eleven dollars (\$11) for a family size of one (1);
 - 26 b. Seven dollars (\$7) for a family size of two (2); and
 - 27 c. Three dollars (\$3) for a family size of three (3);

- 1 2. If modified gross income is above one hundred four percent (104%) but
2 less than or equal to one hundred eight percent (108%) of the threshold
3 amount, the credit shall be in an amount equal to:
 - 4 a. Twenty dollars (\$20) for a family size of one (1);
 - 5 b. Thirteen dollars (\$13) for a family size of two (2); and
 - 6 c. Six dollars (\$6) for a family size of three (3);
- 7 3. If modified gross income is above one hundred eight percent (108%) but
8 less than or equal to one hundred twelve percent (112%) of the threshold
9 amount, the credit shall be in an amount equal to:
 - 10 a. Twenty-nine dollars (\$29) for a family size of one (1);
 - 11 b. Eighteen dollars (\$18) for a family size of two (2); and
 - 12 c. Six dollars (\$6) for a family size of three (3);
- 13 4. If modified gross income is above one hundred twelve percent (112%)
14 but less than or equal to one hundred sixteen percent (116%) of the
15 threshold amount, the credit shall be in an amount equal to:
 - 16 a. Thirty-seven dollars (\$37) for a family size of one (1);
 - 17 b. Twenty-two dollars (\$22) for a family size of two (2); and
 - 18 c. Six dollars (\$6) for a family size of three (3);
- 19 5. If modified gross income is above one hundred sixteen percent (116%)
20 but less than or equal to one hundred twenty percent (120%) of the
21 threshold amount, the credit shall be in an amount equal to:
 - 22 a. Forty-five dollars (\$45) for a family size of one (1);
 - 23 b. Twenty-four dollars (\$24) for a family size of two (2); and
 - 24 c. Four dollars (\$4) for a family size of three (3);
- 25 6. If modified gross income is above one hundred twenty percent (120%)
26 but less than or equal to one hundred twenty-four percent (124%) of the
27 threshold amount, the credit shall be in an amount equal to:

- 1 a. Fifty-one dollars (\$51) for a family size of one (1); and
- 2 b. Twenty-six dollars (\$26) for a family size of two (2);
- 3 7. If modified gross income is above one hundred twenty-four percent
- 4 (124%) but less than or equal to one hundred twenty-seven percent
- 5 (127%) of the threshold amount, the credit shall be in an amount equal
- 6 to:
- 7 a. Fifty-eight dollars (\$58) for a family size of one (1); and
- 8 b. Twenty-seven dollars (\$27) for a family size of two (2);
- 9 8. If modified gross income is above one hundred twenty-seven percent
- 10 (127%) but less than or equal to one hundred thirty percent (130%) of
- 11 the threshold amount, the credit shall be in an amount equal to:
- 12 a. Sixty-four dollars (\$64) for a family size of one (1); and
- 13 b. Twenty-eight dollars (\$28) for a family size of two (2); and
- 14 9. If modified gross income is above one hundred thirty percent (130%) but
- 15 less than or equal to one hundred thirty-three percent (133%) of the
- 16 threshold amount, the credit shall be in an amount equal to:
- 17 a. Sixty-nine dollars (\$69) for a family size of one (1); and
- 18 b. Twenty-eight dollars (\$28) for a family size of two (2).
- 19 (4) For a qualifying married couple filing jointly, the family size tax credit shall be
- 20 computed on the basis of their joint modified gross income and shall be applied
- 21 against their joint tax liability. For a qualifying married couple living together,
- 22 whether filing separate returns or filing separately on a combined return, the family
- 23 size tax credit shall be computed on the basis of their combined modified gross
- 24 income, except that a separately computed modified gross income of less than zero
- 25 shall be treated as zero, and shall be applied against their combined tax liability.
- 26 ➔Section 17. KRS 141.040 is amended to read as follows:
- 27 (1) Every corporation doing business in this state, except those corporations listed in

1 paragraphs (a) and (b) of this subsection, shall pay for each taxable year a tax to be
2 computed by the taxpayer on taxable net income at the rates specified in this
3 section:

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

- 5 1. Financial institutions, as defined in KRS 136.500, except bankers banks
6 organized under KRS 286.3-135;
- 7 2. Savings and loan associations organized under the laws of this state and
8 under the laws of the United States and making loans to members only;
- 9 3. Banks for cooperatives;
- 10 4. Production credit associations;
- 11 5. Insurance companies, including farmers' or other mutual hail, cyclone,
12 windstorm, or fire insurance companies, insurers, and reciprocal
13 underwriters;
- 14 6. Corporations or other entities exempt under Section 501 of the Internal
15 Revenue Code;
- 16 7. Religious, educational, charitable, or like corporations not organized or
17 conducted for pecuniary profit; and
- 18 8. Corporations whose only owned or leased property located in this state
19 is located at the premises of a printer with which it has contracted for
20 printing, provided that:
 - 21 a. The property consists of the final printed product, or copy from
22 which the printed product is produced; and
 - 23 b. The corporation has no individuals receiving compensation in this
24 state as provided in KRS 141.120(8)(b); and

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

- 26 1. Insurance companies, including farmers' or other mutual hail, cyclone,
27 windstorm, or fire insurance companies, insurers, and reciprocal

- 1 underwriters;
- 2 2. Corporations or other entities exempt under Section 501 of the Internal
- 3 Revenue Code;
- 4 3. Religious, educational, charitable, or like corporations not organized or
- 5 conducted for pecuniary profit; and
- 6 4. Corporations whose only owned or leased property located in this state
- 7 is located at the premises of a printer with which it has contracted for
- 8 printing, provided that:
- 9 a. The property consists of the final printed product, or copy from
- 10 which the printed product is produced; and
- 11 b. The corporation has no individuals receiving compensation in this
- 12 state as provided in KRS 141.120(8)(b).
- 13 (2) *For taxable years beginning on or after January 1, 2020, the rate of seven*
- 14 *percent (7%) of taxable net income shall apply.*
- 15 (3) For taxable years beginning on or after January 1, 2018, *but before January 1,*
- 16 *2020,* the rate of five percent (5%) of taxable net income shall apply.
- 17 ~~(4)~~~~(3)~~ For taxable years beginning on or after January 1, 2007, and before January 1,
- 18 2018, the following rates shall apply:
- 19 (a) Four percent (4%) of the first fifty thousand dollars (\$50,000) of taxable net
- 20 income;
- 21 (b) Five percent (5%) of taxable net income over fifty thousand dollars (\$50,000)
- 22 up to one hundred thousand dollars (\$100,000); and
- 23 (c) Six percent (6%) of taxable net income over one hundred thousand dollars
- 24 (\$100,000).
- 25 ~~(5)~~~~(4)~~ (a) An S corporation shall pay income tax on the same items of income and
- 26 in the same manner as required for federal purposes, except to the extent
- 27 required by differences between this chapter and the federal income tax law

1 and regulations.

2 (b) 1. If the S corporation is required under Section 1363(d) of the Internal
3 Revenue Code to submit installments of tax on the recapture of LIFO
4 benefits, installments to pay the Kentucky tax due shall be paid on or
5 before the due date of the S corporation's return, as extended, if
6 applicable.

7 2. Notwithstanding KRS 141.170(3), no interest shall be assessed on the
8 installment payment for the period of extension.

9 (c) If the S corporation is required under Section 1374 or 1375 of the Internal
10 Revenue Code to pay tax on built-in gains or on passive investment income,
11 the amount of tax imposed by this subsection shall be computed by applying
12 the highest rate of tax for the taxable year.

13 ➔Section 18. KRS 141.0401 is amended to read as follows:

14 (1) As used in this section:

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

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

27 (c) "Combined group" means all members of an affiliated group as defined in

1 KRS 141.200(9)(b) and all limited liability pass-through entities that would be
2 included in an affiliated group if organized as a corporation;

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

4 1. Amounts that are:

5 a. Allowable as cost of goods sold pursuant to the Internal Revenue
6 Code and any guidelines issued by the Internal Revenue Service
7 relating to cost of goods sold, unless modified by this paragraph;
8 and

9 b. Incurred in acquiring or producing the tangible product generating
10 the Kentucky gross receipts.

11 2. For manufacturing, producing, reselling, retailing, or wholesaling
12 activities, cost of goods sold shall only include costs directly incurred in
13 acquiring or producing the tangible product. In determining cost of
14 goods sold:

15 a. Labor costs shall be limited to direct labor costs as defined in
16 paragraph (f) of this subsection;

17 b. Bulk delivery costs as defined in paragraph (g) of this subsection
18 may be included; and

19 c. Costs allowable under Section 263A of the Internal Revenue Code
20 may be included only to the extent the costs are incurred in
21 acquiring or producing the tangible product generating the
22 Kentucky gross receipts. Notwithstanding the foregoing, indirect
23 labor costs allowable under Section 263A shall not be included;

24 3. For any activity other than manufacturing, producing, reselling, retailing,
25 or wholesaling, no costs shall be included in cost of goods sold.

26 As used in this paragraph, "guidelines issued by the Internal Revenue Service"
27 includes regulations, private letter rulings, or any other guidance issued by the

1 Internal Revenue Service that may be relied upon by taxpayers under reliance
2 standards established by the Internal Revenue Service;

3 (e) 1. "Kentucky gross profits" means Kentucky gross receipts reduced by
4 returns and allowances attributable to Kentucky gross receipts, less the
5 cost of goods sold attributable to Kentucky gross receipts. If the amount
6 of returns and allowances attributable to Kentucky gross receipts and the
7 cost of goods sold attributable to Kentucky gross receipts is zero, then
8 "Kentucky gross profits" means Kentucky gross receipts; and

9 2. "Gross profits from all sources" means gross receipts from all sources
10 reduced by returns and allowances attributable to gross receipts from all
11 sources, less the cost of goods sold attributable to gross receipts from all
12 sources. If the amount of returns and allowances attributable to gross
13 receipts from all sources and the cost of goods sold attributable to gross
14 receipts from all sources is zero, then gross profits from all sources
15 means gross receipts from all sources;

16 (f) "Direct labor" means labor that is incorporated into the tangible product sold
17 or is an integral part of the manufacturing process;

18 (g) "Bulk delivery costs" means the cost of delivering the product to the consumer
19 if:

20 1. The tangible product is delivered in bulk and requires specialized
21 equipment that generally precludes commercial shipping; and

22 2. The tangible product is taxable under KRS 138.220;

23 (h) "Manufacturing" and "producing" means:

24 1. Manufacturing, producing, constructing, or assembling components to
25 produce a significantly different or enhanced end tangible product;

26 2. Mining or severing natural resources from the earth; or

27 3. Growing or raising agricultural or horticultural products or animals;

- 1 (i) "Real property" means land and anything growing on, attached to, or erected
2 on it, excluding anything that may be severed without injury to the land;
- 3 (j) "Reselling," "retailing," and "wholesaling" mean the sale of a tangible
4 product;
- 5 (k) "Tangible personal property" means property, other than real property, that has
6 physical form and characteristics; and
- 7 (l) "Tangible product" means real property and tangible personal property;
- 8 (2) (a) For taxable years beginning on or after January 1, 2007, an annual limited
9 liability entity tax shall be paid by every corporation and every limited liability
10 pass-through entity doing business in Kentucky on all Kentucky gross receipts
11 or Kentucky gross profits except as provided in this subsection. A small
12 business exclusion from this tax shall be provided based on the reduction
13 contained in this subsection. The tax shall be the greater of the amount
14 computed under paragraph (b) or (c) of this subsection or one hundred
15 seventy-five dollars (\$175), regardless of the application of any tax credits
16 provided under this chapter or any other provisions of the Kentucky Revised
17 Statutes for which the business entity may qualify.
- 18 (b) For taxable years beginning before January 1, 2020, the limited liability
19 entity tax shall be the lesser of subparagraph 1. or 2. of this paragraph:
- 20 1. a. If the corporation's or limited liability pass-through entity's gross
21 receipts from all sources are three million dollars (\$3,000,000) or
22 less, the limited liability entity tax shall be one hundred seventy-
23 five dollars (\$175);
- 24 b. If the corporation's or limited liability pass-through entity's gross
25 receipts from all sources are greater than three million dollars
26 (\$3,000,000) but less than six million dollars (\$6,000,000), the
27 limited liability entity tax shall be nine and one-half cents (\$0.095)

1 per one hundred dollars (\$100) of the corporation's or limited
2 liability pass-through entity's Kentucky gross receipts reduced by
3 an amount equal to two thousand eight hundred fifty dollars
4 (\$2,850) multiplied by a fraction, the numerator of which is six
5 million dollars (\$6,000,000) less the amount of the corporation's or
6 limited liability pass-through entity's Kentucky gross receipts for
7 the taxable year, and the denominator of which is three million
8 dollars (\$3,000,000), but in no case shall the result be less than one
9 hundred seventy-five dollars (\$175);

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

16 2. a. If the corporation's or limited liability pass-through entity's gross
17 profits from all sources are three million dollars (\$3,000,000) or
18 less, the limited liability entity tax shall be one hundred seventy-
19 five dollars (\$175);

20 b. If the corporation's or limited liability pass-through entity's gross
21 profits from all sources are at least three million dollars
22 (\$3,000,000) but less than six million dollars (\$6,000,000), the
23 limited liability entity tax shall be seventy-five cents (\$0.75) per
24 one hundred dollars (\$100) of the corporation's or limited liability
25 pass-through entity's Kentucky gross profits, reduced by an amount
26 equal to twenty-two thousand five hundred dollars (\$22,500)
27 multiplied by a fraction, the numerator of which is six million

dollars (\$6,000,000) less the amount of the corporation's or limited liability pass-through entity's Kentucky gross profits, and the denominator of which is three million dollars (\$3,000,000), but in no case shall the result be less than one hundred seventy-five dollars (\$175);

- c. If the corporation's or limited liability pass-through entity's gross profits from all sources are equal to or greater than six million dollars (\$6,000,000), the limited liability entity tax shall be seventy-five cents (\$0.75) per one hundred dollars (\$100) of all of the corporation's or limited liability pass-through entity's Kentucky gross profits.

In determining eligibility for the reductions contained in this paragraph, a member of a combined group shall consider the combined gross receipts and the combined gross profits from all sources of the entire combined group, including eliminating entries for transactions among the group.

- (c) For taxable years beginning on or after January 1, 2020, the limited liability entity tax shall be the lesser of subparagraph 1. or 2. of this paragraph:

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

b. If the corporation's or limited liability pass-through entity's gross receipts from all sources are greater than one million dollars (\$1,000,000) but less than two million dollars (\$2,000,000), the limited liability entity tax shall be nine and one-half cents (\$0.095) per one hundred dollars (\$100) of the

1 corporation's or limited liability pass-through entity's Kentucky
2 gross receipts reduced by an amount equal to nine hundred fifty
3 dollars (\$950) multiplied by a fraction, the numerator of which is
4 two million dollars (\$2,000,000) less the amount of the
5 corporation's or limited liability pass-through entity's Kentucky
6 gross receipts for the taxable year, and the denominator of which
7 is one million dollars (\$1,000,000), but in no case shall the result
8 be less than one hundred seventy-five dollars (\$175); or

9 c. If the corporation's or limited liability pass-through entity's
10 gross receipts from all sources are equal to or greater than two
11 million dollars (\$2,000,000), the limited liability entity tax shall
12 be nine and one-half cents (\$0.095) per one hundred dollars
13 (\$100) of the corporation's or limited liability pass-through
14 entity's Kentucky gross receipts; or

15 2. a. If the corporation's or limited liability pass-through entity's
16 gross profits from all sources are one million dollars
17 (\$1,000,000) or less, the limited liability entity tax shall be one
18 hundred seventy-five dollars (\$175);

19 b. If the corporation's or limited liability pass-through entity's
20 gross profits from all sources are at least one million dollars
21 (\$1,000,000) but less than two million dollars (\$2,000,000), the
22 limited liability entity tax shall be seventy-five cents (\$0.75) per
23 one hundred dollars (\$100) of the corporation's or limited
24 liability pass-through entity's Kentucky gross profits, reduced by
25 an amount equal to seven thousand five hundred dollars
26 (\$7,500) multiplied by a fraction, the numerator of which is two
27 million dollars (\$2,000,000) less the amount of the corporation's

1 or limited liability pass-through entity's Kentucky gross profits,
2 and the denominator of which is one million dollars
3 (\$1,000,000), but in no case shall the result be less than one
4 hundred seventy-five dollars (\$175); or
5 c. If the corporation's or limited liability pass-through entity's
6 gross profits from all sources are equal to or greater than two
7 million dollars (\$2,000,000), the limited liability entity tax shall
8 be seventy-five cents (\$0.75) per one hundred dollars (\$100) of
9 all of the corporation's or limited liability pass-through entity's
10 Kentucky gross profits.

11 In determining eligibility for the reductions contained in this paragraph, a
12 member of a combined group shall consider the combined gross receipts
13 and the combined gross profits from all sources of the entire combined
14 group, including eliminating entries for transactions among the group.

15 (d) A credit shall be allowed against the tax imposed under paragraph (a) of this
16 subsection for the current year to a corporation or limited liability pass-
17 through entity that owns an interest in a limited liability pass-through entity.
18 The credit shall be the proportionate share of tax calculated under this
19 subsection by the lower-level pass-through entity, as determined after the
20 amount of tax calculated by the pass-through entity has been reduced by the
21 minimum tax of one hundred seventy-five dollars (\$175). The credit shall
22 apply across multiple layers of a multi-layered pass-through entity structure.
23 The credit at each layer shall include the credit from each lower layer, after
24 reduction for the minimum tax of one hundred seventy-five dollars (\$175) at
25 each layer.

26 (e)~~(d)~~ The department may promulgate administrative regulations to establish a
27 method for calculating the cost of goods sold attributable to Kentucky.

- 1 (3) A nonrefundable credit based on the tax calculated under subsection (2) of this
2 section shall be allowed against the tax imposed by KRS 141.020 or 141.040. The
3 credit amount shall be determined as follows:
- 4 (a) The credit allowed a corporation subject to the tax imposed by KRS 141.040
5 shall be equal to the amount of tax calculated under subsection (2) of this
6 section for the current year after subtraction of any credits identified in KRS
7 141.0205, reduced by the minimum tax of one hundred seventy-five dollars
8 (\$175), plus any credit determined in paragraph (b) of this subsection for tax
9 paid by wholly or partially owned limited liability pass-through entities. The
10 amount of credit allowed to a corporation based on the amount of tax paid
11 under subsection (2) of this section for the current year shall be applied to the
12 income tax due from the corporation's activities in this state. Any remaining
13 credit from the corporation shall be disallowed.
- 14 (b) The credit allowed members, shareholders, or partners of a limited liability
15 pass-through entity shall be the members', shareholders', or partners'
16 proportionate share of the tax calculated under subsection (2) of this section
17 for the current year after subtraction of any credits identified in KRS
18 141.0205, as determined after the amount of tax paid has been reduced by the
19 minimum tax of one hundred seventy-five dollars (\$175). The credit allowed
20 to members, shareholders, or partners of a limited liability pass-through entity
21 shall be applied to income tax assessed on income from the limited liability
22 pass-through entity. Any remaining credit from the limited liability pass-
23 through entity shall be disallowed.
- 24 (4) Each taxpayer subject to the tax imposed in this section shall file a return, on forms
25 prepared by the department, on or before the fifteenth day of the fourth month
26 following the close of the taxpayer's taxable year. Any tax remaining due after
27 making the payments required in KRS 141.044 shall be paid by the original due

1 date of the return.

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

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

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

- 6 1. Financial institutions, as defined in KRS 136.500, except banker's banks
7 organized under KRS 287.135 or 286.3-135;
- 8 2. Savings and loan associations organized under the laws of this state and
9 under the laws of the United States and making loans to members only;
- 10 3. Banks for cooperatives;
- 11 4. Production credit associations;
- 12 5. Insurance companies, including farmers' or other mutual hail, cyclone,
13 windstorm, or fire insurance companies, insurers, and reciprocal
14 underwriters;
- 15 6. Corporations or other entities exempt under Section 501 of the Internal
16 Revenue Code;
- 17 7. Religious, educational, charitable, or like corporations not organized or
18 conducted for pecuniary profit;
- 19 8. Corporations whose only owned or leased property located in this state
20 is located at the premises of a printer with which it has contracted for
21 printing, provided that:
 - 22 a. The property consists of the final printed product, or copy from
23 which the printed product is produced; and
 - 24 b. The corporation has no individuals receiving compensation in this
25 state as provided in KRS 141.901;
- 26 9. Public service corporations subject to tax under KRS 136.120;
- 27 10. Open-end registered investment companies organized under the laws of

- 1 this state and registered under the Investment Company Act of 1940;
- 2 11. Any property or facility which has been certified as a fluidized bed
- 3 energy production facility as defined in KRS 211.390;
- 4 12. An alcohol production facility as defined in KRS 247.910;
- 5 13. Real estate investment trusts as defined in Section 856 of the Internal
- 6 Revenue Code;
- 7 14. Regulated investment companies as defined in Section 851 of the
- 8 Internal Revenue Code;
- 9 15. Real estate mortgage investment conduits as defined in Section 860D of
- 10 the Internal Revenue Code;
- 11 16. Personal service corporations as defined in Section 269A(b)(1) of the
- 12 Internal Revenue Code;
- 13 17. Cooperatives described in Sections 521 and 1381 of the Internal
- 14 Revenue Code, including farmers' agricultural and other cooperatives
- 15 organized or recognized under KRS Chapter 272, advertising
- 16 cooperatives, purchasing cooperatives, homeowners associations
- 17 including those described in Section 528 of the Internal Revenue Code,
- 18 political organizations as defined in Section 527 of the Internal Revenue
- 19 Code, and rural electric and rural telephone cooperatives; or
- 20 18. Publicly traded partnerships as defined by Section 7704(b) of the
- 21 Internal Revenue Code that are treated as partnerships for federal tax
- 22 purposes under Section 7704(c) of the Internal Revenue Code, or their
- 23 publicly traded partnership affiliates. "Publicly traded partnership
- 24 affiliates" shall include any limited liability company or limited
- 25 partnership for which at least eighty percent (80%) of the limited
- 26 liability company member interests or limited partner interests are
- 27 owned directly or indirectly by the publicly traded partnership; and

- 1 (b) For taxable years beginning on or after January 1, 2021:
- 2 1. Insurance companies, including farmers' or other mutual hail, cyclone,
- 3 windstorm, or fire insurance companies, insurers, and reciprocal
- 4 underwriters;
- 5 2. Corporations or other entities exempt under Section 501 of the Internal
- 6 Revenue Code;
- 7 3. Religious, educational, charitable, or like corporations not organized or
- 8 conducted for pecuniary profit;
- 9 4. Corporations whose only owned or leased property located in this state
- 10 is located at the premises of a printer with which it has contracted for
- 11 printing, provided that:
- 12 a. The property consists of the final printed product, or copy from
- 13 which the printed product is produced; and
- 14 b. The corporation has no individuals receiving compensation in this
- 15 state as provided in KRS 141.901;
- 16 5. Public service corporations subject to tax under KRS 136.120;
- 17 6. Open-end registered investment companies organized under the laws of
- 18 this state and registered under the Investment Company Act of 1940;
- 19 7. Any property or facility which has been certified as a fluidized bed
- 20 energy production facility as defined in KRS 211.390;
- 21 8. An alcohol production facility as defined in KRS 247.910;
- 22 9. Real estate investment trusts as defined in Section 856 of the Internal
- 23 Revenue Code;
- 24 10. Regulated investment companies as defined in Section 851 of the
- 25 Internal Revenue Code;
- 26 11. Real estate mortgage investment conduits as defined in Section 860D of
- 27 the Internal Revenue Code;

- 1 12. Personal service corporations as defined in Section 269A(b)(1) of the
2 Internal Revenue Code;
- 3 13. Cooperatives described in Sections 521 and 1381 of the Internal
4 Revenue Code, including farmers' agricultural and other cooperatives
5 organized or recognized under KRS Chapter 272, advertising
6 cooperatives, purchasing cooperatives, homeowners associations
7 including those described in Section 528 of the Internal Revenue Code,
8 political organizations as defined in Section 527 of the Internal Revenue
9 Code, and rural electric and rural telephone cooperatives; or
- 10 14. Publicly traded partnerships as defined by Section 7704(b) of the
11 Internal Revenue Code that are treated as partnerships for federal tax
12 purposes under Section 7704(c) of the Internal Revenue Code, or their
13 publicly traded partnership affiliates. "Publicly traded partnership
14 affiliates" shall include any limited liability company or limited
15 partnership for which at least eighty percent (80%) of the limited
16 liability company member interests or limited partner interests are
17 owned directly or indirectly by the publicly traded partnership.
- 18 (7) (a) As used in this subsection, "qualified exempt organization" means an entity
19 listed in subsection (6)(a) and (b) of this section and shall not include any
20 entity whose exempt status has been disallowed by the Internal Revenue
21 Service.
- 22 (b) Notwithstanding any other provisions of this section, any limited liability
23 pass-through entity that is owned in whole or in part by a qualified exempt
24 organization shall, in calculating its Kentucky gross receipts or Kentucky
25 gross profits, exclude the proportionate share of its Kentucky gross receipts or
26 Kentucky gross profits attributable to the ownership interest of the qualified
27 exempt organization.

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

6 (d) The department~~[-of Revenue]~~ may promulgate an administrative regulation to
7 further define "qualified exempt organization" to include an entity for which
8 exemption is constitutionally or legally required, or to exclude any entity
9 created primarily for tax avoidance purposes with no legitimate business
10 purpose.

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

15 ➔Section 19. KRS 141.120 is amended to read as follows:

16 This section applies to taxable years beginning on or after January 1, 2018.

17 (1) As used in this section:

18 (a) "Apportionable income" means:

19 1. All income that is apportionable under the Constitution of the United
20 States and is not allocated under this section, including:

21 a. Income arising from transactions and activity in the regular course
22 of the taxpayer's trade or business; and

23 b. Income arising from tangible and intangible property if the
24 acquisition, management, employment, development, or
25 disposition of the property is or was related to the operation of the
26 taxpayer's trade or business; and

27 2. Any income that would be allocable to this state under the Constitution

1 of the United States, but that is apportioned rather than allocated
2 pursuant to this section;

3 (b) "Commercial domicile" means the principal place from which the trade or
4 business of the taxpayer is directed or managed;

5 (c) "Financial organization" means any bank, trust company, savings bank,
6 industrial bank, land bank, safe deposit company, private banker, savings and
7 loan association, cooperative bank, small loan company, sales finance
8 company, investment company, or any similar type of entity;

9 (d) "Non-apportionable income" means all income other than apportionable
10 income;

11 (e) "Receipts" means all gross receipts of the taxpayer that are not allocated under
12 this section, and that are received from transactions and activity in the regular
13 course of the taxpayer's trade or business, except that receipts of a taxpayer
14 from:

- 15 1. Hedging transactions; and
16 2. The maturity, redemption, sale, exchange, loan, or other disposition of
17 cash or securities;
18 shall be excluded; and

19 (f) "This state" means the Commonwealth of Kentucky.

20 (2) Any taxpayer having income from business activity which is taxable both within
21 and without this state, other than activity as a provider as defined in KRS 136.602, a
22 financial organization, or a public service company, shall allocate and apportion net
23 income as provided in this section.

24 (3) For purposes of allocation and apportionment of income under this section, a
25 taxpayer is taxable in another state if:

26 (a) In that state the taxpayer is subject to a net income tax, a franchise tax
27 measured by net income, a franchise tax for the privilege of doing business, or

1 a corporate stock tax; or

2 (b) That state has jurisdiction to subject the taxpayer to a net income tax
3 regardless of whether, in fact, the state does or does not do so.

4 (4) Rents and royalties from real or tangible personal property, capital gains, interest, or
5 patent or copyright royalties, to the extent that they constitute nonapportionable
6 income, shall be allocated as provided in subsections (5) to (8) of this section.

7 (5) (a) Net rents and royalties from real property located in this state are allocable to
8 this state.

9 (b) Net rents and royalties from tangible personal property are allocable to this
10 state:

- 11 1. If and to the extent that the property is utilized in this state; or
12 2. In their entirety if the taxpayer's commercial domicile is in this state and
13 the taxpayer is not organized under the laws of or taxable in the state in
14 which the property is utilized.

15 (c) The extent of utilization of tangible personal property in a state is determined
16 by multiplying the rents and royalties by a fraction the numerator of which is
17 the number of days of physical location of the property in this state during the
18 rental or royalty period in the taxable year and the denominator of which is the
19 number of days of physical location of the property everywhere during all
20 rental or royalty periods in the taxable year. If the physical location of the
21 property during all rental or royalty periods is unknown or unascertainable by
22 the taxpayer, tangible personal property is utilized in the state in which the
23 property was located at the time the rental or royalty payer obtained
24 possession.

25 (6) (a) Capital gains and losses from sales of real property located in this state are
26 allocable to this state.

27 (b) Capital gains and losses from sales of tangible personal property are allocable

1 to this state if:

- 2 1. The property had a situs in this state at the time of the sale; or
3 2. The taxpayer's commercial domicile is in this state and the taxpayer is
4 not taxable in the state in which the property had a situs.

5 (c) Capital gains and losses from sales of intangible personal property are
6 allocable to this state if the taxpayer's commercial domicile is in this state.

7 (7) Interest is allocable to this state if the taxpayer's commercial domicile is in this
8 state.

9 (8) (a) Patent and copyright royalties are allocable to this state:

- 10 1. If and to the extent that the patent or copyright is utilized by the payer in
11 this state; or
12 2. If and to the extent that the patent or copyright is utilized by the payer in
13 a state in which the taxpayer is not taxable and the taxpayer's
14 commercial domicile is in this state.

15 (b) A patent is utilized in a state to the extent that it is employed in production,
16 fabrication, manufacturing, or other processing in the state or to the extent that
17 a patented product is produced in the state. If the basis of receipts from patent
18 royalties does not permit allocation to states or if the accounting procedures
19 do not reflect states of utilization, the patent is utilized in the state in which
20 the taxpayer's commercial domicile is located.

21 (9) All apportionable income shall be apportioned to this state by multiplying the
22 income by a fraction:

23 (a) For taxable years beginning on or after January 1, 2018, but before
24 January 1, 2020, the numerator of which is the total receipts of the taxpayer
25 in this state during the taxable year and the denominator of which is the total
26 receipts of the taxpayer everywhere during the taxable year; and

27 (b) For taxable years beginning on or after January 1, 2020, the numerator of

1 which is the property factor plus the payroll factor plus the receipts factor,
2 and the denominator of which is four (4).

3 (10) The property factor is a fraction the numerator of which is the average value of
4 the taxpayer's real and tangible personal property owned or rented and used in
5 this state during the taxable year and the denominator of which is the average
6 value of all of the taxpayer's real and tangible personal property owned or rented
7 and used during the taxable year.

8 (11) Property owned by the taxpayer is valued at its original cost. Property rented by
9 the taxpayer is valued at eight (8) times the net annual rental rate. Net annual
10 rental rate is the annual rental rate paid by the taxpayer less any annual rental
11 rate received by the taxpayer from subrentals.

12 (12) The average value of property shall be determined by averaging the values at the
13 beginning and ending of the taxable year. The department may require the
14 averaging of monthly values during the taxable year if reasonably required to
15 reflect properly the average value of the taxpayer's property.

16 (13) The payroll factor is a fraction the numerator of which is the total amount paid
17 in this state during the taxable year by the taxpayer for compensation and the
18 denominator of which is the total compensation paid everywhere during the
19 taxable year.

20 (14) Compensation is paid in this state if:

21 (a) The individual's service is performed entirely within this state;

22 (b) The individual's service is performed both within and without the state, but
23 the service performed without the state is incidental to the individual's
24 service within the state; or

25 (c) Some of the service is performed within this state and the base of operations
26 or, if there is no base of operations, the place from which the service is
27 directed or controlled is in the state; or the base of operations or the place

from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(15) The receipts factor is a fraction the numerator of which is the total receipts of the taxpayer in this state during the taxable year and the denominator of which is the total receipts of the taxpayer everywhere during the taxable year.

(16) Receipts from the sale of tangible personal property are in this state if:

- (a) The property is delivered or shipped to a purchaser, other than the United States government, within this state regardless of the f.o.b. point or other conditions of the sale; or
- (b) The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and:

1. The purchaser is the United States government; and

2. The taxpayer is not taxable in the state of the purchaser.

(17)~~(14)~~ (a) Receipts, other than receipts described in subsection (16)~~(10)~~ of this section, are in this state if the taxpayer's market for the sales is in this state.

The taxpayer's market for sales is in this state:

1. In the case of sale, rental, lease, or license of real property, if and to the extent the property is located in this state;
2. In the case of rental, lease, or license of tangible personal property, if and to the extent the property is located in this state;
3. In the case of sale of a service, if and to the extent the service is delivered to a location in this state; and
4. In the case of intangible property:
 - a. That is rented, leased, or licensed, if and to the extent the property is used in this state, provided that intangible property utilized in marketing a good or service to a consumer is used in this state if

1 that good or service is purchased by a consumer who is in this
2 state; and

3 b. That is sold, if and to the extent the property is used in this state,
4 provided that:

5 i. A contract right, government license, or similar intangible
6 property that authorizes the holder to conduct a business
7 activity in a specific geographic area is used in this state if
8 the geographic area includes all or part of this state;

9 ii. Receipts from intangible property sales that are contingent on
10 the productivity, use, or disposition of the intangible property
11 shall be treated as receipts from the rental, lease, or licensing
12 of the intangible property under subdivision a. of this
13 subparagraph; and

14 iii. All other receipts from a sale of intangible property shall be
15 excluded from the numerator and denominator of the receipts
16 factor.

17 (b) If the state or states of assignment under paragraph (a) of this subsection
18 cannot be determined, the state or states of assignment shall be reasonably
19 approximated.

20 (c) If the taxpayer is not taxable in a state to which a receipt is assigned under
21 paragraph (a) or (b) of this subsection, or if the state of assignment cannot be
22 determined under paragraph (a) of this subsection or reasonably approximated
23 under paragraph (b) of this subsection, the receipt shall be excluded from the
24 denominator of the receipts factor.

25 (d) The department may promulgate administrative regulations necessary to carry
26 out the purposes of this section.

27 ~~(18)~~~~[(12)]~~ (a) If the allocation and apportionment provisions of this section do not

1 fairly represent the extent of the taxpayer's business activity in this state, the
2 taxpayer may petition for or the department may require, in respect to all or
3 any part of the taxpayer's business activity, if reasonable:

- 4 1. Separate accounting;
- 5 2. The inclusion of one (1) or more additional factors which will fairly
6 represent the taxpayer's business activity in this state; or
- 7 3. The employment of any other method to effectuate an equitable
8 allocation and apportionment of the taxpayer's income.

9 (b) 1. If the allocation and apportionment provisions of this section do not
10 fairly represent the extent of business activity in this state of taxpayers
11 engaged in a particular industry or in a particular transaction or activity,
12 the department may, in addition to the authority provided in paragraph
13 (a) of this subsection, promulgate administrative regulations for
14 determining alternative allocation and apportionment methods for those
15 taxpayers.

- 16 2. An administrative regulation promulgated pursuant to this paragraph
17 shall be applied uniformly, except that with respect to any taxpayer to
18 whom the administrative regulation applies, the taxpayer may petition
19 for or the department may require adjustment according to paragraph (a)
20 of this subsection.

21 (c) 1. The party petitioning for or the department requiring the use of any
22 method to effectuate an equitable allocation and apportionment of the
23 taxpayer's income pursuant to paragraph (a) of the subsection shall prove
24 by clear and convincing evidence:

- 25 a. That the allocation and apportionment provisions of this section do
26 not fairly represent the extent of the taxpayer's business activity in
27 this state; and

1 b. That the alternative to the provisions is reasonable.

2 2. The same burden of proof shall apply whether the taxpayer is petitioning

3 for, or the department is requiring, the use of any reasonable method to

4 effectuate an equitable allocation and apportionment of the taxpayer's

5 income. Notwithstanding the previous sentence, if the department can

6 show that in any two (2) of the prior five (5) taxable years, the taxpayer

7 had used an allocation or apportionment method at variance with its

8 allocation or apportionment method or methods used for the other

9 taxable years, then the department shall not bear the burden of proof in

10 imposing a different method provided by paragraph (a) of this

11 subsection.

12 (d) If the department requires any method to effectuate an equitable allocation and

13 apportionment of the taxpayer's income, the department cannot impose any

14 civil or criminal penalty with reference to the tax due that is attributable to the

15 taxpayer's reasonable reliance solely on the allocation and apportionment

16 provisions of this subsection.

17 (e) A taxpayer that has received written permission from the department to use a

18 reasonable method to effectuate an equitable allocation and apportionment of

19 the taxpayer's income shall not have that permission revoked with respect to

20 transactions and activities that have already occurred unless there has been a

21 material change in, or a material misrepresentation of, the facts provided by

22 the taxpayer upon which the department reasonably relied.

23 ➔Section 20. KRS 141.039 is amended to read as follows:

24 For taxable years beginning on or after January 1, 2018, in the case of corporations:

25 (1) Gross income shall be calculated by adjusting federal gross income as defined in

26 Section 61 of the Internal Revenue Code as follows:

27 (a) Exclude income that is exempt from state taxation by the Kentucky

- 1 Constitution and the Constitution and statutory laws of the United States;
- 2 (b) Exclude all dividend income;
- 3 (c) Include interest income derived from obligations of sister states and political
4 subdivisions thereof;
- 5 (d) Exclude fifty percent (50%) of gross income derived from any disposal of coal
6 covered by Section 631(c) of the Internal Revenue Code if the corporation
7 does not claim any deduction for percentage depletion, or for expenditures
8 attributable to the making and administering of the contract under which such
9 disposition occurs or to the preservation of the economic interests retained
10 under such contract;
- 11 (e) Include in the gross income of lessors income tax payments made by lessees
12 to lessors, under the provisions of Section 110 of the Internal Revenue Code,
13 and exclude such payments from the gross income of lessees;
- 14 (f) Include the amount calculated under KRS 141.205;
- 15 (g) Ignore the provisions of Section 281 of the Internal Revenue Code in
16 computing gross income;
- 17 (h) Include the amount of depreciation deduction calculated under 26 U.S.C. sec.
18 167 or 168; and
- 19 (2) Net income shall be calculated by subtracting from gross income:
- 20 (a) The deduction for depreciation allowed by KRS 141.0101;
- 21 (b) Any amount paid for vouchers or similar instruments that provide health
22 insurance coverage to employees or their families; and
- 23 (c) All the deductions from gross income allowed corporations by Chapter 1 of
24 the Internal Revenue Code, as modified by KRS 141.0101, except:
- 25 1. Any deduction for a state tax which is computed, in whole or in part, by
26 reference to gross or net income and which is paid or accrued to any
27 state of the United States, the District of Columbia, the Commonwealth

- 1 of Puerto Rico, any territory or possession of the United States, or to any
2 foreign country or political subdivision thereof;
- 3 2. The deductions contained in Sections 243, 244, 245, and 247 of the
4 Internal Revenue Code;
- 5 3. The provisions of Section 281 of the Internal Revenue Code shall be
6 ignored in computing net income;
- 7 4. Any deduction directly or indirectly allocable to income which is either
8 exempt from taxation or otherwise not taxed under the provisions of this
9 chapter, and nothing in this chapter shall be construed to permit the
10 same item to be deducted more than once;
- 11 5. Any deduction for amounts paid to any club, organization, or
12 establishment which has been determined by the courts or an agency
13 established by the General Assembly and charged with enforcing the
14 civil rights laws of the Commonwealth, not to afford full and equal
15 membership and full and equal enjoyment of its goods, services,
16 facilities, privileges, advantages, or accommodations to any person
17 because of race, color, religion, national origin, or sex, except nothing
18 shall be construed to deny a deduction for amounts paid to any religious
19 or denominational club, group, or establishment or any organization
20 operated solely for charitable or educational purposes which restricts
21 membership to persons of the same religion or denomination in order to
22 promote the religious principles for which it is established and
23 maintained;
- 24 6. Any deduction prohibited by KRS 141.205; and
- 25 7. Any dividends-paid deduction of any captive real estate investment
26 trust~~[-]; and~~
- 27 ~~(d) 1. A deferred tax deduction in an amount computed in accordance with this~~

1 paragraph.

2 2. ~~For purposes of this paragraph:~~

3 a. ~~"Net deferred tax asset" means that deferred tax assets exceed the~~
4 ~~deferred tax liabilities of the combined group, as computed in~~
5 ~~accordance with accounting principles generally accepted in the~~
6 ~~United States of America; and~~

7 b. ~~"Net deferred tax liability" means deferred tax liabilities that~~
8 ~~exceed the deferred tax assets of a combined group as defined in~~
9 ~~KRS 141.202, as computed in accordance with accounting~~
10 ~~principles generally accepted in the United States of America.~~

11 3. ~~Only publicly traded companies, including affiliated corporations~~
12 ~~participating in the filing of a publicly traded company's financial~~
13 ~~statements prepared in accordance with accounting principles generally~~
14 ~~accepted in the United States of America, as of January 1, 2019, shall be~~
15 ~~eligible for this deduction.~~

16 4. ~~If the provisions of KRS 141.202 result in an aggregate increase to the~~
17 ~~member's net deferred tax liability, an aggregate decrease to the~~
18 ~~member's net deferred tax asset, or an aggregate change from a net~~
19 ~~deferred tax asset to a net deferred tax liability, the combined group~~
20 ~~shall be entitled to a deduction, as determined in this paragraph.~~

21 5. ~~For ten (10) years beginning with the combined group's first taxable year~~
22 ~~beginning on or after January 1, 2024, a combined group shall be~~
23 ~~entitled to a deduction from the combined group's entire net income~~
24 ~~equal to one-tenth (1/10) of the amount necessary to offset the increase~~
25 ~~in the net deferred tax liability, decrease in the net deferred tax asset, or~~
26 ~~aggregate change from a net deferred tax asset to a net deferred tax~~
27 ~~liability. The increase in the net deferred tax liability, decrease in the net~~

1 ~~deferred tax asset, or the aggregate change from a net deferred tax asset~~
2 ~~to a net deferred tax liability shall be computed based on the change that~~
3 ~~would result from the imposition of the combined reporting requirement~~
4 ~~under KRS 141.202, but for the deduction provided under this paragraph~~
5 ~~as of June 27, 2019.~~

6 ~~6. The deferred tax impact determined in subparagraph 5. of this paragraph~~
7 ~~shall be converted to the annual deferred tax deduction amount, as~~
8 ~~follows:~~

9 ~~a. The deferred tax impact determined in subparagraph 5. of this~~
10 ~~paragraph shall be divided by the tax rate determined under KRS~~
11 ~~141.040;~~

12 ~~b. The resulting amount shall be further divided by the apportionment~~
13 ~~factor determined by KRS 141.120 or 141.121 that was used by the~~
14 ~~combined group in the calculation of the deferred tax assets and~~
15 ~~deferred tax liabilities as described in subparagraph 5. of this~~
16 ~~paragraph; and~~

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

20 ~~7. The deduction calculated under this paragraph shall not be adjusted as a~~
21 ~~result of any events happening subsequent to the calculation, including~~
22 ~~but not limited to any disposition or abandonment of assets. The~~
23 ~~deduction shall be calculated without regard to the federal tax effect and~~
24 ~~shall not alter the tax basis of any asset. If the deduction under this~~
25 ~~section is greater than the combined group's entire Kentucky net income,~~
26 ~~any excess deduction shall be carried forward and applied as a deduction~~
27 ~~to the combined group's entire net income in future taxable years until~~

1 ~~fully utilized.~~

2 ~~8. Any combined group intending to claim a deduction under this~~
3 ~~paragraph shall file a statement with the department on or before July 1,~~
4 ~~2019. The statement shall specify the total amount of the deduction~~
5 ~~which the combined group claims on the form, including calculations~~
6 ~~and other information supporting the total amounts of the deduction as~~
7 ~~required by the department. No deduction shall be allowed under this~~
8 ~~paragraph for any taxable year, except to the extent claimed on the~~
9 ~~timely filed statement in accordance with this paragraph].~~

10 ➔Section 21. KRS 141.201 is amended to read as follows:

11 (1) This section shall apply to taxable years beginning on or after January 1, 2019, but
12 before January 1, 2021.

13 (2) As used in this section:

14 (a) "Affiliated group" means affiliated group as defined in Section 1504(a) of the
15 Internal Revenue Code and related regulations;

16 (b) "Consolidated return" means a Kentucky corporation income tax return filed
17 by members of an affiliated group in accordance with this section. The
18 determinations and computations required by this chapter shall be made in
19 accordance with Section 1502 of the Internal Revenue Code and related
20 regulations, except as required by differences between this chapter and the
21 Internal Revenue Code. Corporations exempt from taxation under KRS
22 141.040 shall not be included in the return;

23 (c) "Separate return" means a Kentucky corporation income tax return in which
24 only the transactions and activities of a single corporation are considered in
25 making all determinations and computations necessary to calculate taxable net
26 income, tax due, and credits allowed in accordance with this chapter;

27 (d) "Corporation" means "corporation" as defined in Section 7701(a)(3) of the

1 Internal Revenue Code; and

2 (e) "Election period" means the forty-eight (48) month period provided for in
3 subsection (4)(d) of this section.

4 (3) Every corporation doing business in this state, except those exempt from taxation
5 under KRS 141.040, shall, for each taxable year:

6 (a) 1. File a combined report, if the corporation is a member of unitary
7 business group as provided in KRS 141.202; or

8 2. Make an election to file a consolidated return with all members of the
9 affiliated group as provided in this section; or

10 (b) File a separate return, if paragraph (a) of this subsection does not apply.

11 (4) (a) An affiliated group, whether or not filing a federal consolidated return, may
12 elect to file a consolidated return which includes all members of the affiliated
13 group.

14 (b) An affiliated group electing to file a consolidated return under paragraph (a) of
15 this subsection shall be treated for all purposes as a single corporation under
16 this chapter. All transactions between corporations included in the
17 consolidated return shall be eliminated in computing net income as provided
18 in KRS 141.039(2), and determining the apportionment fraction in accordance
19 with KRS 141.120.

20 (c) Any election made in accordance with paragraph (a) of this subsection shall be
21 made on a form prescribed by the department and shall be submitted to the
22 department on or before the due date of the return, including extensions, for
23 the first taxable year for which the election is made.

24 (d) Any election to file a consolidated return pursuant to paragraph (a) of this
25 subsection shall be binding on both the department and the affiliated group for
26 a period beginning with the first month of the first taxable year for which the
27 election is made and ending with the conclusion of the taxable year in which

1 the forty-eighth consecutive calendar month expires.

2 (e) For each taxable year for which an affiliated group has made an election
3 provided in paragraph (a) of this subsection, the consolidated return shall
4 include all corporations which are members of the affiliated group.

5 (5) Each corporation included as part of an affiliated group filing a consolidated return
6 shall be jointly and severally liable for the income tax liability computed on the
7 consolidated return, except that any corporation which was not a member of the
8 affiliated group for the entire taxable year shall be jointly and severally liable only
9 for that portion of the Kentucky consolidated income tax liability attributable to that
10 portion of the year that the corporation was a member of the affiliated group.

11 (6) Every corporation return or report required by this chapter shall be executed by one
12 (1) of the following officers of the corporation: the president, vice president,
13 secretary, treasurer, assistant secretary, assistant treasurer, or chief accounting
14 officer. The department may require a further or supplemental report of further
15 information and data necessary for computation of the tax.

16 (7) In the case of a corporation doing business in this state that carries on transactions
17 with stockholders or with other corporations related by stock ownership, by
18 interlocking directorates, or by some other method, the department shall require
19 information necessary to make possible accurate assessment of the income derived
20 by the corporation from sources within this state. To make possible this assessment,
21 the department may require the corporation to file supplementary returns showing
22 information respecting the business of any or all individuals and corporations
23 related by one (1) or more of these methods to the corporation. The department may
24 require the return to show in detail the record of transactions between the
25 corporation and any or all other related corporations or individuals.

26 ➔Section 22. KRS 141.202 is amended to read as follows:

27 (1)~~— This section shall apply to taxable years beginning on or after January 1, 2019.~~

1 ~~(2)~~ As used in this section:

2 (a) "Combined group" means the group of all persons~~[corporations]~~ whose
3 income and apportionment factors are required to be taken into account as
4 provided in~~[subsection (3) of]~~ this section in determining the taxpayer's share
5 of the net income or loss apportionable to this state~~[. A combined group shall~~
6 ~~include only corporations, the voting stock of which is more than fifty percent~~
7 ~~(50%) owned, directly or indirectly, by a common owner or owners];~~

8 (b) "Corporation" has the same meaning as in KRS 141.010, including an
9 organization of any kind treated as a corporation for tax purposes under KRS
10 141.040, wherever located, which if it were doing business in this state would
11 be a taxpayer, and the business conducted by a pass-through entity which is
12 directly or indirectly held by a corporation shall be considered the business of
13 the corporation to the extent of the corporation's distributive share of the pass-
14 through entity income, inclusive of guaranteed payments;

15 (c) "Person" means any:

16 1. Individual;

17 2. Firm;

18 3. Partnership;

19 4. General partner of a partnership;

20 5. Limited liability company;

21 6. Registered limited liability partnership;

22 7. Foreign limited liability partnership;

23 8. Association;

24 9. Corporation, whether or not the corporation is, or would be if doing
25 business in this state, subject to state income tax;

26 10. Company;

27 11. Syndicate;

1 12. Estate;

2 13. Trust;

3 14. Business trust;

4 15. Trustee;

5 16. Trustee in bankruptcy;

6 17. Receiver;

7 18. Executor;

8 19. Administrator;

9 20. Assignee; or

10 21. Organization of any kind;

11 [~~"Doing business in a tax haven" means being engaged in activity sufficient~~
12 ~~for that tax haven jurisdiction to impose a tax under United States~~
13 ~~constitutional standards;~~

14 (~~d~~) 1. ~~"Tax haven" means a jurisdiction that, during the taxable year has~~
15 ~~no or nominal effective tax on the relevant income and:~~

16 a. ~~Has laws or practices that prevent effective exchange of information for~~
17 ~~tax purposes with other governments on taxpayers benefitting from the~~
18 ~~tax regime;~~

19 b. ~~Has a tax regime which lacks transparency. A tax regime lacks~~
20 ~~transparency if the details of legislative, legal, or administrative~~
21 ~~provisions are not open and apparent or are not consistently applied~~
22 ~~among similarly situated taxpayers, or if the information needed by tax~~
23 ~~authorities to determine a taxpayer's correct tax liability, such as~~
24 ~~accounting records and underlying documentation, is not adequately~~
25 ~~available;~~

26 c. ~~Facilitates the establishment of foreign-owned entities without the need~~
27 ~~for a local substantive presence or prohibits these entities from having~~

1 ~~any commercial impact on the local economy;~~

2 ~~d. Explicitly or implicitly excludes the jurisdiction's resident taxpayers~~
3 ~~from taking advantage of the tax regime's benefits or prohibits~~
4 ~~enterprises that benefit from the regime from operating in the~~
5 ~~jurisdiction's domestic market; or~~

6 ~~e. Has created a tax regime which is favorable for tax avoidance, based~~
7 ~~upon an overall assessment of relevant factors, including whether the~~
8 ~~jurisdiction has a significant untaxed offshore financial or other services~~
9 ~~sector relative to its overall economy.~~

10 ~~2. "Tax haven" does not include a jurisdiction that has entered into a~~
11 ~~comprehensive income tax treaty with the United States, which the~~
12 ~~Secretary of the Treasury has determined is satisfactory for purposes of~~
13 ~~Section 1(h)(11)(C)(i)(II) of the Internal Revenue Code;]~~

14 ~~(d)~~~~(e)}~~ "Taxpayer" means any person~~[corporation]~~ subject to the tax imposed
15 under this chapter;

16 ~~(e)~~~~(f)}~~ "Unitary business" means a single economic enterprise that is made up
17 either of separate parts of a single corporation or of a commonly controlled
18 group of corporations that are sufficiently interdependent, integrated, and
19 interrelated through their activities so as to provide a synergy and mutual
20 benefit that produces a sharing or exchange of value among them and a
21 significant flow of value to the separate parts. For purposes of this section, the
22 term "unitary business" shall be broadly construed, to the extent permitted by
23 the United States Constitution; and

24 ~~(f)~~~~(g)}~~ "United States" means the fifty (50) states of the United States, the
25 District of Columbia, and United States' territories and possessions.

26 ~~(2)~~~~(3)}~~ (a) ~~[Except as provided in KRS 141.201,]~~A taxpayer engaged in a unitary
27 business with one (1) or more other corporations shall file a combined report

1 which includes the income, determined under subsection ~~(4)~~~~(5)~~ of this
2 section, and the apportionment fraction, determined under KRS 141.120 and
3 paragraph (d) of this subsection, of all corporations that are members of the
4 unitary business, and any other information as required by the department.~~]~~
5 ~~The combined report shall be filed on a waters-edge basis under subsection (8)~~
6 ~~of this section.]~~

7 (b) The department may, by administrative regulation, require that the combined
8 report include the income and associated apportionment factors of any
9 persons~~corporations~~ that are not included as provided by paragraph (a) of
10 this subsection, but that are members of a unitary business, in order to reflect
11 proper apportionment of income of the entire unitary businesses. Authority to
12 require combination by administrative regulation under this paragraph
13 includes authority to require combination of persons~~corporations~~ that are
14 not, or would not be combined, if ~~the corporation were~~ doing business in
15 this state.

16 (c) In addition, if the department determines that the reported income or loss of a
17 taxpayer engaged in a unitary business with any person~~corporation~~ not
18 included as provided by paragraph (a) of this subsection represents an
19 avoidance or evasion of tax by the taxpayer, the department may, on a case-
20 by-case basis, require all or any part of the income and associated
21 apportionment factors of the person~~corporation~~ be included in the taxpayer's
22 combined report.

23 (d) With respect to the inclusion of associated apportionment factors as provided
24 in paragraph (a) of this subsection, the department may require the inclusion
25 of any one (1) or more additional factors which will fairly represent the
26 taxpayer's business activity in this state, or the employment of any other
27 method to effectuate a proper reflection of the total amount of income subject

1 to apportionment and an equitable allocation and apportionment of the
2 taxpayer's income.

3 ~~[(e) A unitary business shall consider the combined gross receipts and combined~~
4 ~~income from all sources of all members under subsection (8) of this section,~~
5 ~~including eliminating entries for transactions among the members under~~
6 ~~subsection (8)(e) of this section.~~

7 ~~(f) Notwithstanding paragraphs (a) to (e) of this subsection, a consolidated return~~
8 ~~may be filed as provided in KRS 141.201 if the taxpayer makes an election~~
9 ~~according to KRS 141.201.]~~

10 ~~(3)~~~~[(4)]~~ (a) The use of a combined report does not disregard the separate identities
11 of the taxpayer members of the combined group.

12 (b) Each taxpayer member is responsible for tax based on its taxable income or
13 loss apportioned or allocated to this state, which shall include, in addition to
14 the other types of income, the taxpayer member's share of apportionable
15 income of the combined group, where apportionable income of the combined
16 group is calculated as a summation of the individual net incomes of all
17 members of the combined group.

18 (c) A member's net income is determined by removing all but apportionable
19 income, expense, and loss from that member's total income as provided in
20 subsection ~~(4)~~~~[(5)]~~ of this section.

21 ~~(4)~~~~[(5)]~~ (a) Each taxpayer member is responsible for tax based on its taxable income
22 or loss apportioned or allocated to this state, which shall include:

23 1. Its share of any income apportionable to this state of each of the
24 combined groups of which it is a member, determined under subsection
25 ~~(5)~~~~[(6)]~~ of this section;

26 2. Its share of any income apportionable to this state of a distinct business
27 activity conducted within and without the state wholly by the taxpayer

- 1 member, determined under KRS 141.120;
- 2 3. Its income from a business conducted wholly by the taxpayer member
- 3 entirely within the state;
- 4 4. Its income sourced to this state from the sale or exchange of capital or
- 5 assets, and from involuntary conversions, as determined under
- 6 subsection ~~(7)~~~~(8)~~(k) of this section;
- 7 5. Its nonapportionable income or loss allocable to this state, determined
- 8 under KRS 141.120;
- 9 6. Its income or loss allocated or apportioned in an earlier year, required to
- 10 be taken into account as state source income during the income year,
- 11 other than a net operating loss; and
- 12 7. Its net operating loss carryover.
- 13 (b) No tax credit or post-apportionment deduction earned by one (1) member of
- 14 the group, but not fully used by or allowed to that member, may be used in
- 15 whole or in part by another member of the group or applied in whole or in part
- 16 against the total income of the combined group.
- 17 (c) *A post-apportionment deduction carried over into a subsequent year as to*
- 18 *the member that incurred it, and available as a deduction to that member in*
- 19 *a subsequent year, will be considered in the computation of the income of*
- 20 *that member in the subsequent year, regardless of the composition of that*
- 21 *income as apportioned, allocated, or wholly within this state*~~If the taxable~~
- 22 ~~income computed pursuant to KRS 141.039 results in a net loss for a taxpayer~~
- 23 ~~member of the combined group, that taxpayer member has a Kentucky net~~
- 24 ~~operating loss, subject to the net operating loss limitations and carry forward~~
- 25 ~~provisions of KRS 141.011.~~
- 26 ~~No prior year net operating loss carryforward shall be available to entities that~~
- 27 ~~were not doing business in this state in the year in which the loss was~~

1 incurred.

2 ~~A Kentucky net operating loss carryover incurred by a taxpayer member of a~~
3 ~~combined group shall be deducted from income or loss apportioned to~~
4 ~~this state pursuant to this section as follows:~~

5 ~~1. For taxable years beginning on or after the first day of the initial taxable~~
6 ~~year for which a combined unitary tax return is required under this~~
7 ~~section, if the computation of a combined group's Kentucky net income~~
8 ~~before apportionment to this state results in a net operating loss, a~~
9 ~~taxpayer member of the group may carry over its share of the net~~
10 ~~operating loss as apportioned to this state, as calculated under this~~
11 ~~section and in accordance with KRS 141.120 or 141.121, and it shall be~~
12 ~~deductible from a taxpayer member's apportioned net income derived~~
13 ~~from the unitary business in a future tax year to the extent that the~~
14 ~~carryover and deduction is otherwise consistent with KRS 141.011;~~

15 ~~2. Where a taxpayer member of a combined group has a Kentucky net~~
16 ~~operating loss carryover derived from a loss incurred by a combined~~
17 ~~group in a tax year beginning on or after the first day of the initial tax~~
18 ~~year for which a combined unitary tax return is required under this~~
19 ~~section, then the taxpayer member may share the net operating loss~~
20 ~~carryover with other taxpayer members of the combined group if the~~
21 ~~other taxpayer members were members of the combined group in the tax~~
22 ~~year that the loss was incurred. Any amount of net operating loss~~
23 ~~carryover that is deducted by another taxpayer member of the combined~~
24 ~~group shall reduce the amount of net operating loss carryover that may~~
25 ~~be carried over by the taxpayer member that originally incurred the loss;~~

26 ~~3. Where a taxpayer member of a combined group has a net operating loss~~
27 ~~carryover derived from a loss incurred in a tax year prior to the initial~~

1 ~~tax year for which a combined unitary tax return is required under this~~
2 ~~section, the carryover shall remain available to be deducted by that~~
3 ~~taxpayer member and any other taxpayer members of the combined~~
4 ~~group, but in no case shall the deduction reduce any taxpayer member's~~
5 ~~Kentucky apportioned taxable income by more than fifty percent (50%)~~
6 ~~in any taxable year, other than the taxpayer member that originally~~
7 ~~incurred the net operating loss, in which case no limitation is provided~~
8 ~~except as provided by Section 172 of the Internal Revenue Code. Any~~
9 ~~net operating loss carryover that is not utilized in a particular taxable~~
10 ~~year shall be carried over by the taxpayer member that generated the loss~~
11 ~~and utilized in the future consistent with the limitations of this~~
12 ~~subparagraph; or~~

13 4. ~~Where a taxpayer member of a combined group has a net operating loss~~
14 ~~carryover derived from a loss incurred in a tax year during which the~~
15 ~~taxpayer member was not a taxpayer member of the combined group, the~~
16 ~~carryover shall remain available to be deducted by that taxpayer member~~
17 ~~or other taxpayer members, but in no case shall the deduction reduce any~~
18 ~~taxpayer member's Kentucky apportioned taxable income by more than~~
19 ~~fifty percent (50%) in any taxable year, other than the taxpayer member~~
20 ~~that originally incurred the net operating loss, in which case no~~
21 ~~limitation is provided except as provided by Section 172 of the Internal~~
22 ~~Revenue Code. Any net operating loss carryover that is not utilized in a~~
23 ~~particular taxable year, shall be carried over by the taxpayer member that~~
24 ~~generated the loss and utilized in the future consistent with the~~
25 ~~limitations of this subparagraph].~~

26 ~~(5) [(6)]~~ The taxpayer's share of the business income apportionable to this state of each
27 combined group of which it is a member shall be the product of:

- 1 (a) The apportionable income of the combined group, determined under
 2 subsection ~~(6)~~~~(7)~~ of this section; and
- 3 (b) The taxpayer member's apportionment fraction, determined under KRS
 4 141.120, including in the sales factor numerator the taxpayer's sales associated
 5 with the combined group's unitary business in this state, and including in the
 6 denominator the sales of all members of the combined group, including the
 7 taxpayer, which sales are associated with the combined group's unitary
 8 business wherever located. The sales of a pass-through entity shall be included
 9 in the determination of the partner's apportionment percentage in proportion to
 10 a ratio, the numerator of which is the amount of the partner's distributive share
 11 of the pass-through entity's unitary income included in the income of the
 12 combined group as provided in subsection ~~(7)~~~~(8)~~ of this section and the
 13 denominator of which is the amount of pass-through entity's total unitary
 14 income.
- 15 ~~(6)~~~~(7)~~ The apportionable income of a combined group is determined as follows:
- 16 (a) *From the total income of the combined group, subtract any income, and*
 17 *add any expense or loss, other than apportionable income, expense, or loss*
 18 *of the combined group; and*
- 19 *(b) Except as otherwise provided,* the total income of the combined group is the
 20 sum of the income of each member of the combined group determined under
 21 federal income tax laws, as adjusted for state purposes, as if the member were
 22 not consolidated for federal purposes~~;~~ ~~and~~
- 23 ~~(b) From the total income of the combined group determined under subsection (8)~~
 24 ~~of this section, subtract any income and add any expense or loss, other than~~
 25 ~~the apportionable income, expense, or loss of the combined group].~~
- 26 ~~(7)~~~~(8)~~ *(a) For any member incorporated in the United States, or included in a*
 27 *consolidated federal corporate income tax return, the income to be included*

1 in the total income of the combined group shall be the taxable income for
2 the corporation after making appropriate adjustments under Section 20 of
3 this Act.

4 (b) 1. For any member not included in paragraph (a) of this subsection, the
5 income to be included in the total income of the combined group shall
6 be determined as follows:

7 a. A profit and loss statement shall be prepared for each foreign
8 branch or corporation in the currency in which the books of
9 account of the branch or corporation are regularly maintained;

10 b. Adjustments shall be made to the profit and loss statement to
11 conform it to the accounting principles generally accepted in the
12 United States for the preparation of such statements except as
13 modified by this regulation;

14 c. Adjustments shall be made to the profit and loss statement to
15 conform it to the tax accounting standards required by Section
16 20 of this Act;

17 d. Except as otherwise provided by administrative regulation, the
18 profit and loss statement of each member of the combined group,
19 and the apportionment fraction related thereto, whether United
20 States or foreign, shall be translated into the currency in which
21 the parent company maintains its books and records; and

22 e. Income apportioned to this state shall be expressed in United
23 States dollars.

24 2. a. In lieu of the procedures provided in subparagraph 1. of this
25 paragraph, and subject to the determination of the department
26 that it reasonably approximates income as determined under this
27 chapter, any member not included in paragraph (a) of this

1 subsection may determine its income on the basis of the
2 consolidated profit and loss statement which includes the
3 member and which is prepared for filing with the Securities and
4 Exchange Commission by related corporations.

5 b. If the member is not required to file with the Securities and
6 Exchange Commission, the department may allow the use of the
7 consolidated profit and loss statement prepared for reporting to
8 shareholders and subject to review by an independent auditor.

9 c. If the statements provided in subdivisions a. and b. of this
10 subparagraph do not reasonably approximate income as
11 determined under this chapter, the department may accept those
12 statements with appropriate adjustments to approximate that
13 income.

14 ~~(c)[To determine the total income of the combined group, taxpayer members shall~~
15 ~~take into account all or a portion of the income and apportionment factor of~~
16 ~~only the following members otherwise included in the combined group as~~
17 ~~provided in subsection (3) of this section:~~

18 ~~(a) The entire income and apportionment percentage of any member, incorporated~~
19 ~~in the United States or formed under the laws of any state, the District of~~
20 ~~Columbia, or any territory or possession of the United States, that earns less~~
21 ~~than eighty percent (80%) of its income from sources outside of the United~~
22 ~~States, the District of Columbia, or any territory or possession of the United~~
23 ~~States;~~

24 ~~(b) Any member that earns more than twenty percent (20%) of its income, directly~~
25 ~~or indirectly, from intangible property or service related activities that are~~
26 ~~deductible against the apportionable income of other members of the~~
27 ~~combined group, to the extent of that income and the apportionment factor~~

1 ~~related to that income. If a non-United States corporation is includible as a~~
2 ~~member in the combined group, to the extent that the non-United States~~
3 ~~corporation's income is excluded from United States taxation pursuant to the~~
4 ~~provisions of a comprehensive income tax treaty, the income or loss is not~~
5 ~~includible in the combined group's net income or loss. The member's expenses~~
6 ~~or apportionment factors attributable to income that is excluded from United~~
7 ~~States taxation pursuant to the provisions of a comprehensive income tax~~
8 ~~treaty are not to be included in the combined report;~~

9 ~~(c) The entire income and apportionment factor of any member that is doing~~
10 ~~business in a tax haven. If the member's business activity within a tax haven is~~
11 ~~entirely outside the scope of the laws, provisions, and practices that cause the~~
12 ~~jurisdiction to meet the definition established in subsection (2)(d) of this~~
13 ~~section, the activity of the member shall be treated as not having been~~
14 ~~conducted in a tax haven;~~

15 ~~(d)}~~ If a unitary business includes income from a pass-through entity, the income
16 to be included in the total income of the combined group shall be the member
17 of the combined group's direct and indirect distributive share of the pass-
18 through entity's unitary income.~~{,}~~

19 ~~(d){(e)}~~ **Apportionable** income from an intercompany transaction between
20 members of the same combined group shall be deferred in a manner similar to
21 26 C.F.R. 1.1502-13. Upon the occurrence of any of the following events,
22 deferred income resulting from an intercompany transaction between members
23 of a combined group shall be restored to the income of the seller, and shall be
24 apportionable income earned immediately before the event:

- 25 1. The object of a deferred intercompany transaction is:
- 26 a. Resold by the buyer to an entity that is not a member of the
- 27 combined group;

1 b. Resold by the buyer to an entity that is a member of the combined
2 group for use outside the unitary business in which the buyer and
3 seller are engaged; or

4 c. Converted by the buyer to a use outside the unitary business in
5 which the buyer and seller are engaged; or

6 2. The buyer and seller are no longer members of the same combined
7 group, regardless of whether the members remain unitary.~~[-]~~

8 ~~(e)~~~~[-]~~ A charitable expense incurred by a member of a combined group shall,
9 to the extent allowable as a deduction provided by Section 170 of the Internal
10 Revenue Code, be subtracted first from the apportionable income of the
11 combined group, subject to the income limitations of that section applied to
12 the entire apportionable income of the group, and any remaining amount shall
13 then be treated as a nonapportionable expense allocable to the member that
14 incurred the expense, subject to the income limitations of that section applied
15 to the nonapportionable income of that specific member. Any charitable
16 deduction disallowed under this paragraph, but allowed as a carryover
17 deduction in a subsequent year, shall be treated as originally incurred in the
18 subsequent year by the same member, and this paragraph shall apply in the
19 subsequent year in determining the allowable deduction in that year.~~[-]~~

20 ~~(f)~~~~[-]~~ Gain or loss from the sale or exchange of capital assets, property
21 described by Section 1231(a)(3) of the Internal Revenue Code, and property
22 subject to an involuntary conversion shall be removed from the total separate
23 net income of each member of a combined group and shall be apportioned and
24 allocated as follows:

25 1. For each class of gain or loss, including short-term capital, long-term
26 capital, Internal Revenue Code Section 1231, and involuntary
27 conversions, all members' gain and loss for the class shall be combined,

- 1 without netting between the classes, and each class of net gain or loss
2 separately apportioned to each member using the member's
3 apportionment percentage determined under subsection (6) of this
4 section;
- 5 2. Each taxpayer member shall then net its apportioned business gain or
6 loss for all classes, including any apportioned gain and loss from other
7 combined groups, against the taxpayer member's nonapportionable gain
8 and loss for all classes allocated to this state, using the rules of Sections
9 1231 and 1222 of the Internal Revenue Code, without regard to any of
10 the taxpayer member's gains or losses from the sale or exchange of
11 capital assets, Internal Revenue Code Section 1231 property, and
12 involuntary conversions which are nonapportionable items allocated to
13 another state;
- 14 3. Any resulting state source income or loss, if the loss is not subject to the
15 limitations of Section 1211 of the Internal Revenue Code, of a taxpayer
16 member produced by the application of subparagraphs 1. and 2. of this
17 paragraph shall then be applied to all other state source income or loss of
18 that member; and
- 19 4. Any resulting state source loss of a member that is subject to the
20 limitations of Section 1211 of the Internal Revenue Code shall be
21 carried forward by that member, and shall be treated as state source
22 short-term capital loss incurred by that member for the year for which
23 the carryover applies.~~[-; and]~~
- 24 ~~(g)(h)~~ Any expense of one (1) member of the unitary group which is directly or
25 indirectly attributable to the nonapportionable or exempt income of another
26 member of the unitary group shall be allocated to that other member as
27 corresponding nonapportionable or exempt expense, as appropriate.

(8)(9) (a) As a filing convenience, and without changing the respective liability of the group members, members of a combined reporting group shall annually designate one (1) taxpayer member of the combined group to file a single return in the form and manner prescribed by the department, in lieu of filing their own respective returns.

(b) The taxpayer member designated to file the single return shall consent to act as surety with respect to the tax liability of all other taxpayers properly included in the combined report, and shall agree to act as agent on behalf of those taxpayers for the taxable year for matters relating to the combined report. If for any reason the surety is unwilling or unable to perform its responsibilities, tax liability may be assessed against the taxpayer members.

➔ Section 23. KRS 141.383 is amended to read as follows:

(1) As used in this section *the following terms have the same meaning as defined in KRS 148.542:*

(a) "Above-the-line production crew" ~~[means the same as defined in KRS 148.542];~~

(b) "Approved company" ~~[means the same as defined in KRS 148.542];~~

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

(d) "Cabinet" ~~[means the same as defined in KRS 148.542];~~

(e) "Office" ~~[means the same as defined in KRS 148.542];~~

(f) "Qualifying expenditure" ~~[means the same as defined in KRS 148.542];~~

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

(h) "Secretary" ~~[means the same as defined in KRS 148.542];~~ and

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

(2) (a) There is hereby created a tax credit against the tax imposed under KRS

1 141.020 or 141.040 and 141.0401, with the ordering of credits as provided in
2 KRS 141.0205.

3 (b) The incentive available under paragraph (a) of this section is:

- 4 1. A refundable credit for applications approved prior to April 27, 2018;
5 and
6 2. A nonrefundable and nontransferable credit for applications approved on
7 or after April 27, 2018.

8 (c) 1. a. Beginning on April 27, 2018, the total tax incentive approved
9 under KRS 148.544 shall be limited to one hundred million dollars
10 (\$100,000,000) for calendar year 2018 and 2019~~each calendar~~
11 ~~year thereafter~~; and

12 b. Beginning on April 30, 2020, the total tax incentive approved
13 under KRS 148.544 shall be limited to ten million dollars
14 (\$10,000,000) for calendar year 2020 and each calendar year
15 thereafter.

16 2. On April 30, 2020~~April 27, 2018~~, if applications have been approved
17 during the 2020~~2018~~ calendar year which exceed the amount in
18 paragraph (b)~~(a)~~ of this subsection, the Kentucky Film Office shall
19 immediately cease in approving any further applications for tax
20 incentives.

21 (3) An approved company may receive a refundable tax credit on and after July 1,
22 2010, but only for applications approved prior to April 27, 2018, if:

23 (a) The cabinet has received notification from the office that the approved
24 company has satisfied all requirements of KRS 148.542 to 148.546; and

25 (b) The approved company has provided a detailed cost report and sufficient
26 documentation to the office, which has been forwarded by the office to the
27 cabinet, that:

1 1. The purchases of qualifying expenditures were made after the execution
2 of the tax incentive agreement; and

3 2. The approved company has withheld income tax as required by KRS
4 141.310 on all qualified payroll expenditures.

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

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

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

13 ➔Section 24. KRS 141.433 is amended to read as follows:

14 (1) A qualified community development entity that seeks to have an equity investment
15 or long-term debt security certified as a qualified equity investment and eligible for
16 the tax credit permitted by KRS 141.434 shall apply to the department. The
17 qualified community development entity shall submit an application on a form that
18 the department provides that shall include but not be limited to:

19 (a) The name, address, tax identification number, and evidence of the certification
20 of the entity as a qualified community development entity;

21 (b) A copy of an allocation agreement executed by the entity or its controlling
22 entity and the Community Development Financial Institutions Fund, which
23 includes the Commonwealth of Kentucky in its service area;

24 (c) A certificate executed by an executive officer of the entity attesting that the
25 allocation agreement remains in effect and has not been revoked or canceled
26 by the Community Development Financial Institutions Fund;

27 (d) A description of the proposed amount, structure, and purchaser of the equity

- 1 investment or long-term debt security;
- 2 (e) The name and tax identification number of any person or entity eligible to
- 3 utilize tax credits as a result of the issuance of the qualified equity investment;
- 4 (f) Information regarding the proposed use of proceeds from the issuance of the
- 5 qualified equity investment;
- 6 (g) A nonrefundable application fee in an amount set by the department. This fee
- 7 shall be paid to the department and shall be required of each application
- 8 submitted; and
- 9 (h) In the case of applications submitted on or after January 1, 2014, the
- 10 refundable performance fee required by subsection (8) of this section.
- 11 (2) The department shall review applications in the order in which they are received.
- 12 Within thirty (30) days after receipt of a completed application containing the
- 13 information necessary for the department to certify a potential qualified equity
- 14 investment, including the payment of the application fee, the department shall
- 15 approve or deny the application. If the department intends to deny the application, it
- 16 shall inform the qualified community development entity, by written notice sent via
- 17 certified mail and any other such means deemed feasible by the department, of the
- 18 grounds for the denial. Upon receipt of the notice of intended denial by the qualified
- 19 community development entity:
- 20 (a) If the qualified community development entity provides any additional
- 21 information required by the department or otherwise completes its application
- 22 within fifteen (15) days, the application shall be considered completed as of
- 23 the original date of submission, however the department shall have an
- 24 additional thirty (30) days to either approve or deny the application as
- 25 completed; or
- 26 (b) If the qualified community development entity fails to provide the information
- 27 or complete its application within the fifteen (15) day period, the application

1 shall be deemed denied and must be resubmitted in full with a new
2 submission date.

3 (3) If the application is deemed complete, the department shall certify the proposed
4 equity investment or long-term debt security as a qualified equity investment and
5 eligible for tax credits under KRS 141.432 to 141.434, subject to the annual cap
6 limitations contained in KRS 141.434. The department shall provide written notice
7 sent via certified mail and any other means deemed feasible by the department, of
8 the certification to the qualified community development entity. The notice shall
9 include the names of those taxpayers who are eligible to claim the credits and their
10 respective credit amounts. If the names of the persons or entities that are eligible to
11 claim the credits change due to a transfer of a qualified equity investment or a
12 change in an allocation pursuant to KRS 141.434, the qualified community
13 development entity shall notify the department of such change.

14 (4) Within ninety (90) days after receipt of the notice of certification, the qualified
15 community development entity shall issue the qualified equity investment and
16 receive cash in the amount of the certified purchase price. The qualified community
17 development entity shall provide the department with evidence of the receipt of the
18 cash investment within ten (10) business days after receipt. If the qualified
19 community development entity does not receive the cash investment and issue the
20 qualified equity investment within ninety (90) days following receipt of the
21 certification notice, the certification shall lapse, and the entity may not issue the
22 qualified equity investment without reapplying to the department for certification. A
23 certification that lapses shall revert back to the department and may be reissued only
24 in accordance with the application process outlined in this section.

25 (5) The department shall certify qualified equity investments in the order applications
26 are received by the department. Applications received on the same day shall be
27 deemed to have been received simultaneously. For applications received on the

1 same day and deemed complete, the department shall certify, consistent with
2 remaining tax credit capacity, qualified equity investments in proportionate
3 percentages based upon the ratio of the amount of qualified equity investment
4 requested in an application to the total amount of qualified equity investments
5 requested in all applications received on the same day. If a pending request cannot
6 be fully certified because of the limitations contained in KRS 141.434, the
7 department shall certify the portion that may be certified unless the qualified
8 community development entity elects to withdraw its request rather than receive
9 partial credit.

10 (6) (a) The department may recapture any portion of a tax credit allowed under this
11 section if:

- 12 1. Any amount of federal tax credit that might be available with respect to
13 the qualified equity investment that generated the tax credit under this
14 section is recaptured under 26 U.S.C. sec. 45D. In such case, the
15 department's recapture shall be proportionate to the federal recapture
16 with respect to the qualified equity investment;
- 17 2. The qualified community development entity redeems or makes a
18 principal repayment with respect to the qualified equity investment that
19 generated the tax credit prior to the final credit allowance date of the
20 qualified equity investment. In such case, the department's recapture
21 shall be proportionate to the amount of the redemption or repayment
22 with respect to the qualified equity investment; or
- 23 3. The qualified community development entity fails to invest:
 - 24 a. In the case of a qualified equity investment issued prior to January
25 1, 2014, at least eighty-five percent (85%) of the purchase price of
26 the qualified equity investment in qualified low-income
27 community investments in qualified active low-income community

1 businesses located in the Commonwealth within twenty-four (24)
2 months of the issuance of the qualified equity investment and
3 maintain this level of investment in qualified low-income
4 community investments in qualified active low-income community
5 businesses located in the Commonwealth until the last credit
6 allowance date for the qualified equity investment; and

- 7 b. In the case of a qualified equity investment issued on or after
8 January 1, 2014, at least one hundred percent (100%) of the
9 purchase price of the qualified equity investment in qualified low-
10 income community investments in qualified active low-income
11 community businesses located in the Commonwealth within
12 twelve (12) months of the issuance of the qualified equity
13 investment and maintain this level of investment in qualified low-
14 income community investments in qualified active low-income
15 community businesses located in the Commonwealth until the last
16 credit allowance date for the qualified equity investment. In this
17 case, the department's recapture shall be proportionate to the
18 amount of the redemption or repayment with respect to the
19 qualified equity investment.

20 For purposes of calculating the amount of qualified low-income
21 community investments held by a qualified community development
22 entity, an investment shall be considered held by the qualified
23 community development entity even if the investment has been sold or
24 repaid; provided that the qualified community development entity
25 reinvests an amount equal to the capital returned to or recovered from
26 the original investment, exclusive of any profits realized, in another
27 qualified active low-income community business in this state within

1 twelve (12) months of the receipt of the capital. A qualified community
2 development entity shall not be required to reinvest capital returned
3 from qualified low-income community investments after the sixth
4 anniversary of the issuance of the qualified equity investment, the
5 proceeds of which were used to make the qualified low-income
6 community investment, and the qualified low-income community
7 investment shall be considered held by the issuer through the qualified
8 equity investment's final credit allowance date.

9 (b) The department shall provide written notice sent via certified mail or other
10 means deemed feasible by the department, to the qualified community
11 development entity of any proposed recapture of tax credits pursuant to this
12 subsection. The entity shall have ninety (90) days to cure any deficiency
13 indicated in the department's original recapture notice and avoid such
14 recapture. If the entity fails or is unable to cure the deficiency within the
15 ninety (90) day period, the department shall provide the entity and the
16 taxpayer from whom the credit is to be recaptured with a final order of
17 recapture. Any tax credit for which a final recapture order has been issued
18 shall be recaptured by the department from the taxpayer who claimed the tax
19 credit on a tax return.

20 (7) The department shall through administrative regulations promulgated in accordance
21 with KRS Chapter 13A provide rules to implement the provisions of KRS 141.432
22 to 141.434, and to administer the allocation of tax credits issued for qualified equity
23 investments.

24 (8) (a) On or after January 1, 2014, a qualified community development entity that
25 seeks to have an equity investment or long-term debt security certified as a
26 qualified equity investment and eligible for the tax credit permitted by KRS
27 141.434 shall, as part of the application, pay a refundable performance fee in

1 an amount equal to one-half of one percent (0.5%) of the amount of the equity
2 investment or long-term debt security requested to be certified as a qualified
3 equity investment, not to exceed five hundred thousand dollars (\$500,000).

4 (b) This fee shall be in the nature of a security deposit to ensure compliance on
5 the part of a qualified community development entity. The fee shall be paid to
6 the department and deposited in the New Markets performance guarantee
7 account established by this subsection, and retained there as private funds
8 until compliance with the provisions of this subsection has been established or
9 as otherwise provided by this subsection.

10 (c) The fee may be refunded to the qualified community development entity that
11 submitted it as follows:

- 12 1. In the case of any application that is ultimately denied pursuant to
13 subsection (2) of this section, the department shall refund the full
14 amount of the fee submitted with the denied application;
- 15 2. In the case of any qualified equity investment that is certified in an
16 amount that is less than the amount requested, due to the limitations
17 contained in KRS 141.434 and pursuant to subsection (5) of this section,
18 the department shall refund a portion of the fee so that only an amount
19 equal to one-half of one percent (0.5%) of the actual certified amount,
20 not to exceed five hundred thousand dollars (\$500,000), is retained; and
- 21 3. In the case of any qualified equity investment that is certified as eligible
22 for tax credits, the qualified community development entity may request
23 a refund of the fee no sooner than thirty (30) days after having met all
24 the requirements of this subsection. The refund request shall be made in
25 writing to the department. The department shall review the refund
26 request within thirty (30) days, and shall either comply with the request
27 and issue the refund of the fee, without interest, if the qualified

1 community development entity has met all the requirements of this
2 subsection, or give written notice to the qualified community
3 development entity that it is noncompliant and subject to possible
4 forfeiture of the fee as provided in this subsection.

5 (d) The qualified community development entity shall forfeit the fee to the
6 Commonwealth as follows:

7 1. The entire amount of the fee shall be forfeited if the qualified
8 community development entity and its subsidiary qualified community
9 development entities fail to issue the total amount of qualified equity
10 investment certified by the department and receive cash in exchange
11 therefor within ninety (90) days after receipt of the notice of
12 certification; and

13 2. A portion of the fee shall be forfeited if the qualified community
14 development entity, or any subsidiary qualified community development
15 entity, that issues a qualified equity investment certified by the
16 department fails to meet the percentage investment requirement under
17 subsection (6) of this section by the first credit allowance date of the
18 qualified equity investment. The forfeiture shall be proportionate to the
19 amount of the qualified equity investment that is not invested as required
20 by subsection (6) of this section. Forfeiture of the fee under this
21 subparagraph shall be subject to the ninety (90) day cure period allowed
22 under subsection (6) of this section.

23 (e) The amount of the fee that is forfeited pursuant to this subsection shall be
24 transferred from the New Markets performance guarantee account and
25 deposited into the general fund.

26 (f) 1. The New Markets performance guarantee account is hereby established
27 as a fiduciary fund within the State Treasury, to be administered by the

1 department solely for the purposes set out in this subsection.

- 2 2. Notwithstanding KRS 45.229, moneys in the account shall not lapse but
3 shall be retained in the account at all times except as provided by this
4 subsection.

5 (9) Beginning on January 1, 2020, the department shall not accept any new
6 applications for the New Markets Development Program described in KRS
7 141.432 to 141.434. Applications received prior to January 1, 2020, may continue
8 to receive incentives in the dollar amount approved.

9 ➔Section 25. KRS 142.303 is amended to read as follows:

10 ~~{(1)} A tax is hereby imposed at a rate of two and one-half percent (2.5%) on gross~~
11 ~~revenues received by all providers on or after July 15, 1994, for the provision of hospital~~
12 ~~services. [The tax imposed by this section shall not apply to gross revenues received for~~
13 ~~dispensing outpatient prescription drugs subject to tax under KRS 142.311.~~

14 ~~(2) (a) Notwithstanding any other provision of the Kentucky Revised Statutes to the~~
15 ~~contrary, beginning in state fiscal year 2008-2009 and continuing annually~~
16 ~~thereafter, the tax imposed under subsection (1) of this section on providers of~~
17 ~~hospital services who paid taxes in state fiscal year 2005-2006 shall be~~
18 ~~assessed on gross revenues received by the provider during state fiscal year~~
19 ~~2005-2006. Notwithstanding KRS 142.301 to 142.363, hospital provider taxes~~
20 ~~due in state fiscal year 2008 and continuing annually thereafter shall be paid in~~
21 ~~twelve (12) equal monthly installments, with each payment due no later than~~
22 ~~twenty (20) days after the last day of each calendar month. At least thirty (30)~~
23 ~~days prior to the beginning of the state fiscal year, the Department of Revenue~~
24 ~~shall send written notice to each provider of hospital services of the provider's~~
25 ~~total tax liability for the year, which shall be the amount the provider paid in~~
26 ~~taxes in state fiscal year 2005-2006. The provisions of this paragraph also~~
27 ~~shall apply if the hospital subsequently undergoes a change in ownership.~~

1 ~~(b) If a hospital was not in operation during state fiscal year 2005-2006, the hospital~~
2 ~~shall be taxed pursuant to the provisions of subsection (1) of this section, provided~~
3 ~~that, upon request of the provider, the Department of Revenue may adjust the~~
4 ~~hospital's annual tax liability in accordance with the gross revenues of a comparable~~
5 ~~hospital.]~~

6 ➔Section 26. The amendments made in Section 1 of this Act apply to property
7 assessed on or after January 1, 2021.

8 ➔Section 27. Sections 2, 3, and 4 of this Act take effect at 11:59 p.m. on July 31,
9 2020.

10 ➔Section 28. Sections 6, 7, 8, 9, and 10 of this Act take effect on October 1,
11 2020.

12 ➔Section 29. The amendments made in Section 11 of this Act apply to dates of
13 death occurring on or after August 1, 2020.

14 ➔Section 30. The amendments made in Sections 12, 13, 14, 15, 16, 17, 18, and
15 19 of this Act apply to taxable years beginning on or after January 1, 2020.

16 ➔Section 31. The amendments made in Section 22 of this Act apply to taxable
17 years beginning on or after January 1, 2021.

18 ➔Section 32. Section 25 of this Act takes effect on August 1, 2020.