

1 AN ACT relating to sales and use tax exemptions.

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

3 ➔Section 1. KRS 139.010 is amended to read as follows:

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

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

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

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

11 a. Bowling centers;

12 b. Skating rinks;

13 c. Health spas;

14 d. Swimming pools;

15 e. Tennis courts;

16 f. Weight training facilities;

17 g. Fitness and recreational sports centers; and

18 h. Golf courses, both public and private;

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

22 (b) "Admissions" does not include:

23 1. Any fee paid to enter or participate in a fishing tournament; or

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

26 (2) "Advertising and promotional direct mail" means direct mail the primary purpose of
27 which is to attract public attention to a product, person, business, or organization, or

1 to attempt to sell, popularize, or secure financial support for a product, person,
2 business, or organization. As used in this definition, "product" means tangible
3 personal property, an item transferred electronically, or a service;

4 (3) (a) "Breast pump" means an electrically or manually controlled pump device
5 designed or marketed to be used to express milk from a human breast
6 during lactation.

7 (b) "Breast pump" includes the electrically or manually controlled pump device
8 and any battery, AC adapter, or other power supply unit packaged and sold
9 with the pump device at the time of sale to power the pump device;

10 (4) (a) "Breast pump collection and storage supplies" means items of tangible
11 personal property designed or marketed to be used in conjunction with a
12 breast pump to collect milk expressed from a human breast and to store
13 collected milk until it is ready for consumption.

14 (b) "Breast pump collection and storage supplies" includes but is not limited
15 to:

16 1. Breast shields and breast shield connectors;

17 2. Breast pump tubes and tubing adapters;

18 3. Breast pump valves and membranes;

19 4. Backflow protectors and backflow protector adaptors;

20 5. Bottles and bottle caps specific to the operation of the breast pump;

21 6. Breast milk storage bags; and

22 7. Other items that may be useful to initiate, support, or sustain
23 breastfeeding using a breast pump during lactation, that may be sold
24 separately, but are generally sold as part of a breast pump kit.

25 (c) "Breast pump collection and storage supplies" does not include, unless sold
26 as part of a breast pump kit prepackaged by the breast pump manufacturer
27 or distributor:

- 1 1. Bottles and bottle caps not specific to the operation of the breast
- 2 pump;
- 3 2. Breast pump travel bags and other similar carrying accessories,
- 4 including ice packs, labels, and other similar products;
- 5 3. Breast pump cleaning supplies;
- 6 4. Nursing bras, bra pads, breast shells, and other similar products; or
- 7 5. Creams, ointments, and other similar products that relieve
- 8 breastfeeding-related symptoms or conditions of the breasts or nipples;

9 (5) "Breast pump kit" means a kit that contains a breast pump and one (1) or more
10 of the following items:

11 (a) Breast pump collection and storage supplies; or

12 (b) Other taxable items of tangible personal property that may be useful to
13 initiate, support, or sustain breastfeeding using a breast pump during
14 lactation, so long as the other taxable items of tangible personal property
15 sold with the breast pump kit at the time of sale are less than ten percent
16 (10%) of the total sales price of the breast pump kit;

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

20 ~~(7)~~~~(4)~~ (a) "Clothing" means all human wearing apparel suitable for general
21 use.

22 (b) "Clothing" does not include diapers;

23 (8) "Commonwealth" means the Commonwealth of Kentucky;

24 ~~(9)~~~~(5)~~ (a) "Cosmetic surgery services" means modifications to all areas of the
25 head, neck, and body to enhance appearance through surgical and medical
26 techniques.

27 (b) "Cosmetic surgery services" does not include reconstruction of facial and

1 body defects due to birth disorders, trauma, burns, or disease;

2 ~~(10)~~~~(6)~~ "Department" means the Department of Revenue;

3 ~~(11)~~ **"Diaper" means an absorbent garment worn by humans who are incapable of or**
4 **have difficulty controlling their bladder or bowel movements;**

5 ~~(12)~~~~(7)~~ (a) "Digital audio-visual works" means a series of related images which,
6 when shown in succession, impart an impression of motion, with
7 accompanying sounds, if any.

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

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

12 ~~(13)~~~~(8)~~ (a) "Digital audio works" means works that result from the fixation of a
13 series of musical, spoken, or other sounds.

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

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

19 ~~(14)~~~~(9)~~ (a) "Digital books" means works that are generally recognized in the
20 ordinary and usual sense as books, including any literary work expressed in
21 words, numbers, or other verbal or numerical symbols or indicia if the literary
22 work is generally recognized in the ordinary or usual sense as a book.

23 (b) "Digital books" shall not include digital audio-visual works, digital audio
24 works, periodicals, magazines, newspapers, or other news or information
25 products, chat rooms, or web logs;

26 ~~(15)~~~~(10)~~ (a) "Digital code" means a code which provides a purchaser with a right to
27 obtain one (1) or more types of digital property. A "digital code" may be

1 obtained by any means, including electronic mail messaging or by tangible
2 means, regardless of the code's designation as a song code, video code, or
3 book code.

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

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

9 ~~(16)~~~~(11)~~ (a) "Digital property" means any of the following which is transferred
10 electronically:

- 11 1. Digital audio works;
- 12 2. Digital books;
- 13 3. Finished artwork;
- 14 4. Digital photographs;
- 15 5. Periodicals;
- 16 6. Newspapers;
- 17 7. Magazines;
- 18 8. Video greeting cards;
- 19 9. Audio greeting cards;
- 20 10. Video games;
- 21 11. Electronic games; or
- 22 12. Any digital code related to this property.

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

25 ~~(17)~~~~(12)~~ (a) "Direct mail" means printed material delivered or distributed by United
26 States mail or other delivery service to a mass audience or to addressees on a
27 mailing list provided by the purchaser or at the direction of the purchaser

1 when the cost of the items are not billed directly to the recipient.

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

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

7 ~~(18)~~~~(13)~~ "Directly used in the manufacturing or industrial processing process" means
8 the process that commences with the movement of raw materials from storage into
9 a continuous, unbroken, integrated process and ends when the finished product is
10 packaged and ready for sale;

11 ~~(19)~~~~(14)~~ (a) "Extended warranty services" means services provided through a service
12 contract agreement between the contract provider and the purchaser where the
13 purchaser agrees to pay compensation for the contract and the provider agrees
14 to repair, replace, support, or maintain tangible personal property, digital
15 property, or real property according to the terms of the contract.

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

21 ~~(20)~~~~(15)~~ "Feminine hygiene products" means tampons, panty liners, menstrual
22 cups, sanitary napkins, and other similar tangible personal property designed for
23 feminine hygiene in connection with the human menstrual cycle, but does not
24 include grooming and hygiene products as defined in KRS 139.472;

25 ~~(21)~~ (a) "Finished artwork" means final art that is used for actual reproduction by
26 photomechanical or other processes or for display purposes.

27 (b) "Finished artwork" includes:

- 1 1. Assemblies;
- 2 2. Charts;
- 3 3. Designs;
- 4 4. Drawings;
- 5 5. Graphs;
- 6 6. Illustrative materials;
- 7 7. Lettering;
- 8 8. Mechanicals;
- 9 9. Paintings; and
- 10 10. Paste-ups;

11 (22)~~[(16)]~~ (a) "Gross receipts" and "sales price" mean the total amount or
12 consideration, including cash, credit, property, and services, for which
13 tangible personal property, digital property, or services are sold, leased, or
14 rented, valued in money, whether received in money or otherwise, without
15 any deduction for any of the following:

- 16 1. The retailer's cost of the tangible personal property, digital property, or
17 services sold;
- 18 2. The cost of the materials used, labor or service cost, interest, losses, all
19 costs of transportation to the retailer, all taxes imposed on the retailer, or
20 any other expense of the retailer;
- 21 3. Charges by the retailer for any services necessary to complete the sale;
- 22 4. Delivery charges, which are defined as charges by the retailer for the
23 preparation and delivery to a location designated by the purchaser
24 including transportation, shipping, postage, handling, crating, and
25 packing;
- 26 5. Any amount for which credit is given to the purchaser by the retailer,
27 other than credit for tangible personal property or digital property traded

1 when the tangible personal property or digital property traded is of like
2 kind and character to the property purchased and the property traded is
3 held by the retailer for resale; and

4 6. The amount charged for labor or services rendered in installing or
5 applying the tangible personal property, digital property, or service sold.

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

8 1. The retailer actually receives consideration from a third party and the
9 consideration is directly related to a price reduction or discount on the
10 sale to the purchaser;

11 2. The retailer has an obligation to pass the price reduction or discount
12 through to the purchaser;

13 3. The amount of consideration attributable to the sale is fixed and
14 determinable by the retailer at the time of the sale of the item to the
15 purchaser; and

16 4. One (1) of the following criteria is met:

17 a. The purchaser presents a coupon, certificate, or other
18 documentation to the retailer to claim a price reduction or discount
19 where the coupon, certificate, or documentation is authorized,
20 distributed, or granted by a third party with the understanding that
21 the third party will reimburse any seller to whom the coupon,
22 certificate, or documentation is presented;

23 b. The price reduction or discount is identified as a third-party price
24 reduction or discount on the invoice received by the purchaser or
25 on a coupon, certificate, or other documentation presented by the
26 purchaser; or

27 c. The purchaser identifies himself or herself to the retailer as a

1 member of a group or organization entitled to a price reduction or
2 discount. A "preferred customer" card that is available to any
3 patron does not constitute membership in such a group.

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

- 5 1. Discounts, including cash, term, or coupons that are not reimbursed by a
6 third party and that are allowed by a retailer and taken by a purchaser on
7 a sale;
- 8 2. Interest, financing, and carrying charges from credit extended on the
9 sale of tangible personal property, digital property, or services, if the
10 amount is separately stated on the invoice, bill of sale, or similar
11 document given to the purchaser;
- 12 3. Any taxes legally imposed directly on the purchaser that are separately
13 stated on the invoice, bill of sale, or similar document given to the
14 purchaser; or
- 15 4. Local alcohol regulatory license fees authorized under KRS 243.075 that
16 are separately stated on the invoice, bill of sale, or similar document
17 given to the purchaser.

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

20 ~~(23)~~~~[(17)]~~ "In this state" or "in the state" means within the exterior limits of the
21 Commonwealth and includes all territory within these limits owned by or ceded to
22 the United States of America;

23 ~~(24)~~~~[(18)]~~ "Industrial processing" includes:

- 24 (a) Refining;
- 25 (b) Extraction of minerals, ores, coal, clay, stone, petroleum, or natural gas;
- 26 (c) Mining, quarrying, fabricating, and industrial assembling;
- 27 (d) The processing and packaging of raw materials, in-process materials, and

1 finished products; and

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

3 ~~(25)~~~~[(19)]~~ (a) "Lease or rental" means any transfer of possession or control of tangible
4 personal property for a fixed or indeterminate term for consideration. A lease
5 or rental shall include future options to:
6 1. Purchase the property; or
7 2. Extend the terms of the agreement and agreements covering trailers
8 where the amount of consideration may be increased or decreased by
9 reference to the amount realized upon sale or disposition of the property
10 as defined in 26 U.S.C. sec. 7701(h)(1).

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

12 1. A transfer of possession or control of property under a security
13 agreement or deferred payment plan that requires the transfer of title
14 upon completion of the required payments;
15 2. A transfer of possession or control of property under an agreement that
16 requires the transfer of title upon completion of the required payments
17 and payment of an option price that does not exceed the greater of one
18 hundred dollars (\$100) or one percent (1%) of the total required
19 payments; or
20 3. Providing tangible personal property and an operator for the tangible
21 personal property for a fixed or indeterminate period of time. To qualify
22 for this exclusion, the operator must be necessary for the equipment to
23 perform as designed, and the operator must do more than maintain,
24 inspect, or setup the tangible personal property.

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

- 1 ~~(26)~~~~(20)~~ (a) "Machinery for new and expanded industry" means machinery:
- 2 1. Directly used in the manufacturing or industrial processing process of:
- 3 a. Tangible personal property at a plant facility;
- 4 b. Distilled spirits or wine at a plant facility or on the premises of a
- 5 distiller, rectifier, winery, or small farm winery licensed under
- 6 KRS 243.030 that includes a retail establishment on the premises;
- 7 or
- 8 c. Malt beverages at a plant facility or on the premises of a brewer or
- 9 microbrewery licensed under KRS 243.040 that includes a retail
- 10 establishment;
- 11 2. Which is incorporated for the first time into:
- 12 a. A plant facility established in this state; or
- 13 b. Licensed premises located in this state; and
- 14 3. Which does not replace machinery in the plant facility or licensed
- 15 premises unless that machinery purchased to replace existing machinery:
- 16 a. Increases the consumption of recycled materials at the plant
- 17 facility by not less than ten percent (10%);
- 18 b. Performs different functions;
- 19 c. Is used to manufacture a different product; or
- 20 d. Has a greater productive capacity, as measured in units of
- 21 production, than the machinery being replaced.
- 22 (b) "Machinery for new and expanded industry" does not include repair,
- 23 replacement, or spare parts of any kind, regardless of whether the purchase of
- 24 repair, replacement, or spare parts is required by the manufacturer or seller as
- 25 a condition of sale or as a condition of warranty;
- 26 ~~(27)~~~~(24)~~ "Manufacturing" means any process through which material having little or
- 27 no commercial value for its intended use before processing has appreciable

1 commercial value for its intended use after processing by the machinery;

2 ~~(28)~~~~[(22)]~~ "Marketing services" means developing marketing objectives and policies,
3 sales forecasting, new product developing and pricing, licensing, and franchise
4 planning;

5 ~~(29)~~~~[(23)]~~ "Marketplace" means any physical or electronic means through which one (1)
6 or more retailers may advertise and sell tangible personal property, digital property,
7 or services, or lease tangible personal property or digital property, such as a catalog,
8 Internet website~~[Web site]~~, or television or radio broadcast, regardless of whether
9 the tangible personal property, digital property, or retailer is physically present in
10 this state;

11 ~~(30)~~~~[(24)]~~ (a) "Marketplace provider" means a person, including any affiliate of the
12 person, that facilitates a retail sale by satisfying subparagraphs 1. and 2. of
13 this paragraph as follows:

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

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

- 1 c. Through terms and conditions, agreements, or arrangements with a
2 third party, collects payment in connection with a retail sale of
3 tangible personal property, digital property, or services from a
4 purchaser and transmits that payment to the marketplace retailer,
5 regardless of whether the person collecting and transmitting the
6 payment receives compensation or other consideration in exchange
7 for the service; or
- 8 d. Provides a virtual currency that purchasers are allowed or required
9 to use to purchase tangible personal property, digital property, or
10 services.
- 11 (b) "Marketplace provider" includes but is not limited to a person that satisfies the
12 requirements of this subsection through the ownership, operation, or control
13 of a digital distribution service, digital distribution platform, online portal, or
14 application store;
- 15 ~~(31)~~~~(25)~~ "Marketplace retailer" means a seller that makes retail sales through any
16 marketplace owned, operated, or controlled by a marketplace provider;
- 17 ~~(32)~~~~(26)~~ (a) "Occasional sale" includes:
- 18 1. A sale of tangible personal property or digital property not held or used
19 by a seller in the course of an activity for which he or she is required to
20 hold a seller's permit, provided such sale is not one (1) of a series of
21 sales sufficient in number, scope, and character to constitute an activity
22 requiring the holding of a seller's permit. In the case of the sale of the
23 entire, or a substantial portion of the nonretail assets of the seller, the
24 number of previous sales of similar assets shall be disregarded in
25 determining whether or not the current sale or sales shall qualify as an
26 occasional sale; or
- 27 2. Any transfer of all or substantially all the tangible personal property or

1 digital property held or used by a person in the course of such an activity
2 when after such transfer the real or ultimate ownership of such property
3 is substantially similar to that which existed before such transfer.

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

8 ~~(33)~~~~(27)~~ (a) "Other direct mail" means any direct mail that is not advertising and
9 promotional direct mail, regardless of whether advertising and promotional
10 direct mail is included in the same mailing.

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

- 12 1. Transactional direct mail that contains personal information specific to
13 the addressee, including but not limited to invoices, bills, statements of
14 account, and payroll advices;
- 15 2. Any legally required mailings, including but not limited to privacy
16 notices, tax reports, and stockholder reports; and
- 17 3. Other nonpromotional direct mail delivered to existing or former
18 shareholders, customers, employees, or agents, including but not limited
19 to newsletters and informational pieces.

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

23 ~~(34)~~~~(28)~~ "Person" includes any individual, firm, copartnership, joint venture,
24 association, social club, fraternal organization, corporation, estate, trust, business
25 trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or
26 agency, or any other group or combination acting as a unit;

27 ~~(35)~~~~(29)~~ "Permanent," as the term applies to digital property, means perpetual or for an

1 indefinite or unspecified length of time;

2 ~~(36)~~~~[(30)]~~ (a) "Photography and photofinishing services" means:

- 3 1. The taking, developing, or printing of an original photograph; or
- 4 2. Image editing, including shadow removal, tone adjustments, vertical and
- 5 horizontal alignment and cropping, composite image creation,
- 6 formatting, watermarking printing, and delivery of an original
- 7 photograph in the form of tangible personal property, digital property, or
- 8 other media.

9 (b) "Photography and photofinishing services" does not include photography
10 services necessary for medical or dental health;

11 ~~(37)~~~~[(31)]~~ "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 ~~(38)~~~~[(32)]~~ (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 (39)~~[(33)]~~ "Prewritten computer software access services" means the right of access to
11 prewritten computer software where the object of the transaction is to use the
12 prewritten computer software while possession of the prewritten computer software
13 is maintained by the seller or a third party, wherever located, regardless of whether
14 the charge for the access or use is on a per use, per user, per license, subscription, or
15 some other basis;

16 (40)~~[(34)]~~ (a) "Purchase" means any transfer of title or possession, exchange, barter,
17 lease, or rental, conditional or otherwise, in any manner or by any means
18 whatsoever, of:

- 19 1. Tangible personal property;
- 20 2. An extended warranty service;
- 21 3. Digital property transferred electronically; or
- 22 4. Services included in KRS 139.200;
- 23 for a consideration.

24 (b) "Purchase" includes:

- 25 1. When performed outside this state or when the customer gives a resale
26 certificate, the producing, fabricating, processing, printing, or imprinting
27 of tangible personal property for a consideration for consumers who

1 furnish either directly or indirectly the materials used in the producing,
2 fabricating, processing, printing, or imprinting;

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

6 3. A transfer for a consideration of the title or possession of tangible
7 personal property or digital property which has been produced,
8 fabricated, or printed to the special order of the customer, or of any
9 publication;

10 ~~(41)~~~~[(35)]~~ "Recycled materials" means materials which have been recovered or diverted
11 from the solid waste stream and reused or returned to use in the form of raw
12 materials or products;

13 ~~(42)~~~~[(36)]~~ "Recycling purposes" means those activities undertaken in which materials
14 that would otherwise become solid waste are collected, separated, or processed in
15 order to be reused or returned to use in the form of raw materials or products;

16 ~~(43)~~~~[(37)]~~ "Remote retailer" means a retailer with no physical presence in this state;

17 ~~(44)~~~~[(38)]~~ (a) "Repair, replacement, or spare parts" means any tangible personal
18 property used to maintain, restore, mend, or repair machinery or equipment.

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

21 ~~(45)~~~~[(39)]~~ (a) "Retailer" means:

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

25 2. Every person engaged in the business of making sales at auction of
26 tangible personal property or digital property owned by the person or
27 others for storage, use or other consumption, except as provided in

1 paragraph (c) of this subsection;

- 2 3. Every person making more than two (2) retail sales of tangible personal
3 property, digital property, or services included in KRS 139.200 during
4 any twelve (12) month period, including sales made in the capacity of
5 assignee for the benefit of creditors, or receiver or trustee in bankruptcy;
6 4. Any person conducting a race meeting under the provision of KRS
7 Chapter 230, with respect to horses which are claimed during the
8 meeting.

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

- 18 (c) 1. Any person making sales at a charitable auction for a qualifying entity
19 shall not be a retailer for purposes of the sales made at the charitable
20 auction if:
21 a. The qualifying entity, not the person making sales at the auction, is
22 sponsoring the auction;
23 b. The purchaser of tangible personal property at the auction directly
24 pays the qualifying entity sponsoring the auction for the property
25 and not the person making the sales at the auction; and
26 c. The qualifying entity, not the person making sales at the auction, is
27 responsible for the collection, control, and disbursement of the

1 auction proceeds.

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

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

6 a. Church;

7 b. School;

8 c. Civic club; or

9 d. Any other nonprofit charitable, religious, or educational
10 organization;

11 ~~(46)~~~~[(40)]~~ "Retail sale" means any sale, lease, or rental for any purpose other than resale,
12 sublease, or subrent;

13 ~~(47)~~~~[(41)]~~ (a) "Ringtones" means digitized sound files that are downloaded onto a
14 device and that may be used to alert the customer with respect to a
15 communication.

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

18 ~~(48)~~~~[(42)]~~ (a) "Sale" means:

19 1. The furnishing of any services included in KRS 139.200;

20 2. Any transfer of title or possession, exchange, barter, lease, or rental,
21 conditional or otherwise, in any manner or by any means whatsoever,
22 of:

23 a. Tangible personal property; or

24 b. Digital property transferred electronically;

25 for a consideration.

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

27 1. The producing, fabricating, processing, printing, or imprinting of

- 1 tangible personal property or digital property for a consideration for
2 purchasers who furnish, either directly or indirectly, the materials used
3 in the producing, fabricating, processing, printing, or imprinting;
- 4 2. A transaction whereby the possession of tangible personal property or
5 digital property is transferred, but the seller retains the title as security
6 for the payment of the price; and
- 7 3. A transfer for a consideration of the title or possession of tangible
8 personal property or digital property which has been produced,
9 fabricated, or printed to the special order of the purchaser.
- 10 (c) This definition shall apply regardless of the classification of a transaction
11 under generally accepted accounting principles, the Internal Revenue Code, or
12 other provisions of federal, state, or local law;
- 13 (49)~~((43))~~ "Seller" includes every person engaged in the business of selling tangible
14 personal property, digital property, or services of a kind, the gross receipts from the
15 retail sale of which are required to be included in the measure of the sales tax, and
16 every person engaged in making sales for resale;
- 17 (50)~~((44))~~ (a) "Storage" includes any keeping or retention in this state for any purpose
18 except sale in the regular course of business or subsequent use solely outside
19 this state of tangible personal property or digital property purchased from a
20 retailer.
- 21 (b) "Storage" does not include the keeping, retaining, or exercising any right or
22 power over tangible personal property for the purpose of subsequently
23 transporting it outside the state for use thereafter solely outside the state, or
24 for the purpose of being processed, fabricated, or manufactured into, attached
25 to, or incorporated into, other tangible personal property to be transported
26 outside the state and thereafter used solely outside the state;
- 27 (51)~~((45))~~ "Tangible personal property" means personal property which may be seen,

1 weighed, measured, felt, or touched, or which is in any other manner perceptible to
2 the senses and includes natural, artificial, and mixed gas, electricity, water, steam,
3 and prewritten computer software;

4 ~~(52)~~~~((46))~~ "Taxpayer" means any person liable for tax under this chapter;

5 ~~(53)~~~~((47))~~ "Telemarketing services" means services provided via telephone, facsimile,
6 electronic mail, or other modes of communications to another person, which are
7 unsolicited by that person, for the purposes of:

- 8 (a) 1. Promoting products or services;
9 2. Taking orders; or
10 3. Providing information or assistance regarding the products or services;
11 or

12 (b) Soliciting contributions;

13 ~~(54)~~~~((48))~~ "Transferred electronically" means accessed or obtained by the purchaser by
14 means other than tangible storage media; and

15 ~~(55)~~~~((49))~~ (a) "Use" includes the exercise of:

- 16 1. Any right or power over tangible personal property or digital property
17 incident to the ownership of that property, or by any transaction in
18 which possession is given, or by any transaction involving digital
19 property or tangible personal property where the right of access is
20 granted; or
21 2. Any right or power to benefit any services subject to tax under KRS
22 139.200(2)(p) to (ay).

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

- 25 1. Selling tangible personal property or digital property in the regular
26 course of business; or
27 2. Subsequently transporting tangible personal property outside the state

1 for use thereafter solely outside the state, or for the purpose of being
2 processed, fabricated, or manufactured into, attached to, or incorporated
3 into, other tangible personal property to be transported outside the state
4 and thereafter used solely outside the state.

5 ➔Section 2. KRS 139.480 is amended to read as follows:

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

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

12 (2) Coal for the manufacture of electricity;

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

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

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

1 production at a plant facility with tolling operations in place as of July 1,
2 2018.

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

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

- 1 plant facility;
- 2 (4) Livestock of a kind the products of which ordinarily constitute food for human
3 consumption, provided the sales are made for breeding or dairy purposes and by or
4 to a person regularly engaged in the business of farming;
- 5 (5) Poultry for use in breeding or egg production;
- 6 (6) Farm work stock for use in farming operations;
- 7 (7) Seeds, the products of which ordinarily constitute food for human consumption or
8 are to be sold in the regular course of business, and commercial fertilizer to be
9 applied on land, the products from which are to be used for food for human
10 consumption or are to be sold in the regular course of business; provided such sales
11 are made to farmers who are regularly engaged in the occupation of tilling and
12 cultivating the soil for the production of crops as a business, or who are regularly
13 engaged in the occupation of raising and feeding livestock or poultry or producing
14 milk for sale; and provided further that tangible personal property so sold is to be
15 used only by those persons designated above who are so purchasing;
- 16 (8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be
17 used in the production of crops as a business, or in the raising and feeding of
18 livestock or poultry, the products of which ordinarily constitute food for human
19 consumption;
- 20 (9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the
21 products of which ordinarily constitute food for human consumption;
- 22 (10) Machinery for new and expanded industry;
- 23 (11) Farm machinery. As used in this section, the term "farm machinery":
- 24 (a) Means machinery used exclusively and directly in the occupation of:
- 25 1. Tilling the soil for the production of crops as a business;
- 26 2. Raising and feeding livestock or poultry for sale; or
- 27 3. Producing milk for sale;

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

- 1 (a) Operate farm machinery as defined in subsection (11) of this section;
- 2 (b) Operate on-farm grain or soybean drying facilities as defined in subsection
- 3 (13) of this section;
- 4 (c) Operate on-farm poultry or livestock facilities defined in subsection (14) of
- 5 this section;
- 6 (d) Operate on-farm ratite facilities defined in subsection (23) of this section;
- 7 (e) Operate on-farm llama or alpaca facilities as defined in subsection (25) of this
- 8 section; or
- 9 (f) Operate on-farm dairy facilities;
- 10 (16) Textbooks, including related workbooks and other course materials, purchased for
- 11 use in a course of study conducted by an institution which qualifies as a nonprofit
- 12 educational institution under KRS 139.495. The term "course materials" means only
- 13 those items specifically required of all students for a particular course but shall not
- 14 include notebooks, paper, pencils, calculators, tape recorders, or similar student
- 15 aids;
- 16 (17) Any property which has been certified as an alcohol production facility as defined
- 17 in KRS 247.910;
- 18 (18) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the
- 19 direct operation of aircraft in interstate commerce and used exclusively for the
- 20 conveyance of property or passengers for hire. Nominal intrastate use shall not
- 21 subject the property to the taxes imposed by this chapter;
- 22 (19) Any property which has been certified as a fluidized bed energy production facility
- 23 as defined in KRS 211.390;
- 24 (20) (a) 1. Any property to be incorporated into the construction, rebuilding,
- 25 modification, or expansion of a blast furnace or any of its components or
- 26 appurtenant equipment or structures as part of an approved supplemental
- 27 project, as defined by KRS 154.26-010; and

1 2. Materials, supplies, and repair or replacement parts purchased for use in
2 the operation and maintenance of a blast furnace and related carbon
3 steel-making operations as part of an approved supplemental project, as
4 defined by KRS 154.26-010.

5 (b) The exemptions provided in this subsection shall be effective for sales made:

6 1. On and after July 1, 2018; and

7 2. During the term of a supplemental project agreement entered into
8 pursuant to KRS 154.26-090;

9 (21) Beginning on October 1, 1986, food or food products purchased for human
10 consumption with food coupons issued by the United States Department of
11 Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to
12 be exempted by the Food Security Act of 1985 in order for the Commonwealth to
13 continue participation in the federal food stamp program;

14 (22) Machinery or equipment purchased or leased by a business, industry, or
15 organization in order to collect, source separate, compress, bale, shred, or otherwise
16 handle waste materials if the machinery or equipment is primarily used for
17 recycling purposes;

18 (23) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and
19 production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-
20 products, and the following items used in this agricultural pursuit:

21 (a) Feed and feed additives;

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

23 (c) On-farm facilities, including equipment, machinery, attachments, repair and
24 replacement parts, and any materials incorporated into the construction,
25 renovation, or repair of the facilities. The exemption shall apply to incubation
26 systems, egg processing equipment, waterer and feeding systems, brooding
27 systems, ventilation systems, alarm systems, and curtain systems. In addition,

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

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

8 (25) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for
9 the breeding and production of hides, breeding stock, fiber and wool products,
10 meat, and llama and alpaca by-products, and the following items used in this
11 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
2 for 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) (a) Repair or replacement parts for the direct operation or maintenance of a motor
22 vehicle, including any towed unit, used exclusively in interstate commerce for
23 the conveyance of property or passengers for hire, provided the motor vehicle
24 is licensed for use on the highway and its declared gross vehicle weight with
25 any towed unit is forty-four thousand and one (44,001) pounds or greater.
26 Nominal intrastate use shall not subject the property to the taxes imposed by
27 this chapter;

- 1 (b) Repair or replacement parts for the direct operation and maintenance of a
2 motor vehicle operating under a charter bus certificate issued by the
3 Transportation Cabinet under KRS Chapter 281, or under similar authority
4 granted by the United States Department of Transportation; and
- 5 (c) For the purposes of this subsection, "repair or replacement parts" means tires,
6 brakes, engines, transmissions, drive trains, chassis, body parts, and their
7 components. "Repair or replacement parts" shall not include fuel, machine
8 oils, hydraulic fluid, brake fluid, grease, supplies, or accessories not essential
9 to the operation of the motor vehicle itself, except when sold as part of the
10 assembled unit, such as cigarette lighters, radios, lighting fixtures not
11 otherwise required by the manufacturer for operation of the vehicle, or tool or
12 utility boxes;
- 13 (32) Food donated by a retail food establishment or any other entity regulated under
14 KRS 217.127 to a nonprofit organization for distribution to the needy;~~and~~
- 15 (33) Drugs and over-the counter drugs, as defined in KRS 139.472, that are purchased
16 by a person regularly engaged in the business of farming and used in the treatment
17 of cattle, sheep, goats, swine, poultry, ratite birds, llamas, alpacas, buffalo, aquatic
18 organisms, or cervids; and
- 19 **(34) (a) 1. Baby bottles, including both nipples and liners;**
20 **2. Baby wipes;**
21 **3. Breast pumps;**
22 **4. Breast pump collection and storage supplies;**
23 **5. Breast pump kits;**
24 **6. Diapers, including disposable diapers; and**
25 **7. Feminine hygiene products.**
- 26 **(b) The exemptions provided in paragraph (a) of this subsection apply to items**
27 **sold or purchased on or after July 1, 2023, but before July 1, 2027.**

1 (c) On or before September 1, 2024, and on or before each September 1
2 thereafter as long as the exemption applies, the department shall report to
3 the Interim Joint Committee on Appropriations and Revenue the total
4 amount of the exemption that has been claimed for the immediately
5 preceding fiscal year and the total cumulative amount of the exemption
6 claimed.

7 ➔Section 3. KRS 131.190 is amended to read as follows:

- 8 (1) No present or former commissioner or employee of the department, present or
9 former member of a county board of assessment appeals, present or former property
10 valuation administrator or employee, present or former secretary or employee of the
11 Finance and Administration Cabinet, former secretary or employee of the Revenue
12 Cabinet, or any other person, shall intentionally and without authorization inspect
13 or divulge any information acquired by him or her of the affairs of any person, or
14 information regarding the tax schedules, returns, or reports required to be filed with
15 the department or other proper officer, or any information produced by a hearing or
16 investigation, insofar as the information may have to do with the affairs of the
17 person's business.
- 18 (2) The prohibition established by subsection (1) of this section shall not extend to:
- 19 (a) Information required in prosecutions for making false reports or returns of
20 property for taxation, or any other infraction of the tax laws;
- 21 (b) Any matter properly entered upon any assessment record, or in any way made
22 a matter of public record;
- 23 (c) Furnishing any taxpayer or his or her properly authorized agent with
24 information respecting his or her own return;
- 25 (d) Testimony provided by the commissioner or any employee of the department
26 in any court, or the introduction as evidence of returns or reports filed with the
27 department, in an action for violation of state or federal tax laws or in any

- 1 action challenging state or federal tax laws;
- 2 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or
3 energy resources assessed under KRS 132.820, or owners of surface land
4 under which the unmined minerals lie, factual information about the owner's
5 property derived from third-party returns filed for that owner's property, under
6 the provisions of KRS 132.820, that is used to determine the owner's
7 assessment. This information shall be provided to the owner on a confidential
8 basis, and the owner shall be subject to the penalties provided in KRS
9 131.990(2). The third-party filer shall be given prior notice of any disclosure
10 of information to the owner that was provided by the third-party filer;
- 11 (f) Providing to a third-party purchaser pursuant to an order entered in a
12 foreclosure action filed in a court of competent jurisdiction, factual
13 information related to the owner or lessee of coal, oil, gas reserves, or any
14 other mineral resources assessed under KRS 132.820. The department may
15 promulgate an administrative regulation establishing a fee schedule for the
16 provision of the information described in this paragraph. Any fee imposed
17 shall not exceed the greater of the actual cost of providing the information or
18 ten dollars (\$10);
- 19 (g) Providing information to a licensing agency, the Transportation Cabinet, or
20 the Kentucky Supreme Court under KRS 131.1817;
- 21 (h) Statistics of gasoline and special fuels gallonage reported to the department
22 under KRS 138.210 to 138.448;
- 23 (i) Providing any utility gross receipts license tax return information that is
24 necessary to administer the provisions of KRS 160.613 to 160.617 to
25 applicable school districts on a confidential basis;
- 26 (j) Providing documents, data, or other information to a third party pursuant to an
27 order issued by a court of competent jurisdiction; or

1 (k) Providing information to the Legislative Research Commission under:

- 2 1. KRS 139.519 for purposes of the sales and use tax refund on building
- 3 materials used for disaster recovery;
- 4 2. KRS 141.436 for purposes of the energy efficiency products credits;
- 5 3. KRS 141.437 for purposes of the ENERGY STAR home and the
- 6 ENERGY STAR manufactured home credits;
- 7 4. KRS 141.383 for purposes of the film industry incentives;
- 8 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization
- 9 tax credits and the job assessment fees;
- 10 6. KRS 141.068 for purposes of the Kentucky investment fund;
- 11 7. KRS 141.396 for purposes of the angel investor tax credit;
- 12 8. KRS 141.389 for purposes of the distilled spirits credit;
- 13 9. KRS 141.408 for purposes of the inventory credit;
- 14 10. KRS 141.390 for purposes of the recycling and composting credit;
- 15 11. KRS 141.3841 for purposes of the selling farmer tax credit;
- 16 12. KRS 141.4231 for purposes of the renewable chemical production tax
- 17 credit;
- 18 13. KRS 141.524 for purposes of the Education Opportunity Account
- 19 Program tax credit;
- 20 14. KRS 141.398 for purposes of the development area tax credit;
- 21 15. KRS 139.516 for the purposes of the sales and use tax exemption on the
- 22 commercial mining of cryptocurrency; ~~and~~
- 23 16. KRS 141.419 for purposes of the decontamination tax credit; and
- 24 17. Subsection (34) of Section 2 of this Act for purposes of the sales and
- 25 use tax exemptions listed.

26 (3) The commissioner shall make available any information for official use only and on
27 a confidential basis to the proper officer, agency, board or commission of this state,

1 any Kentucky county, any Kentucky city, any other state, or the federal
2 government, under reciprocal agreements whereby the department shall receive
3 similar or useful information in return.

4 (4) Access to and inspection of information received from the Internal Revenue Service
5 is for department use only, and is restricted to tax administration purposes.
6 Information received from the Internal Revenue Service shall not be made available
7 to any other agency of state government, or any county, city, or other state, and
8 shall not be inspected intentionally and without authorization by any present
9 secretary or employee of the Finance and Administration Cabinet, commissioner or
10 employee of the department, or any other person.

11 (5) Statistics of crude oil as reported to the department under the crude oil excise tax
12 requirements of KRS Chapter 137 and statistics of natural gas production as
13 reported to the department under the natural resources severance tax requirements
14 of KRS Chapter 143A may be made public by the department by release to the
15 Energy and Environment Cabinet, Department for Natural Resources.

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

25 ➔Section 4. This Act shall take effect July 1, 2023.