

1 AN ACT relating to taxation.

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

3 ➔Section 1. KRS 140.130 is amended to read as follows:

4 (1) In addition to the inheritance tax levied under KRS 140.010~~hereinbefore imposed~~,
5 an estate tax is hereby levied on all estates equal to the amount by which the credits
6 for state death taxes allowable under the federal tax law as it was in effect on
7 January 1, 2003, and without any scheduled increases in the unified credit
8 provided in 26 U.S.C. sec. 2010, in effect on January 2, 2001, or thereafter,
9 exceeds the tax levied under KRS 140.010, less the discount allowed under KRS
10 140.210, if taken by the taxpayer. The estate~~Said~~ tax shall be payable at the same
11 time and in the same manner as the inheritance taxes levied by this chapter.

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

14 (a) The ratio which that part of the net estate over which Kentucky has
15 jurisdiction for estate tax purposes bears to the total net estate wherever
16 located shall be ascertained.

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

20 (c) The estate tax levied by this section shall equal the amount, if any, by which
21 the offset allocable to this state shall exceed the inheritance taxes under KRS
22 140.010, less the discount allowed under KRS 140.210, if taken by the
23 taxpayer.

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

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

27 As used in this chapter, unless the context requires otherwise:

- 1 (1) "Commissioner" means the commissioner of the Department of Revenue;
- 2 (2) "Department" means the Department of Revenue;
- 3 (3) "Internal Revenue Code" means the Internal Revenue Code in effect on December
4 31, 2015, exclusive of any amendments made subsequent to that date, other than
5 amendments that extend provisions in effect on December 31, 2015, that would
6 otherwise terminate, and as modified by KRS 141.0101;
- 7 (4) "Dependent" means those persons defined as dependents in the Internal Revenue
8 Code;
- 9 (5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal
10 Revenue Code;
- 11 (6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal
12 Revenue Code;
- 13 (7) "Individual" means a natural person;
- 14 (8) "Modified gross income" means the greater of:
- 15 (a) Adjusted gross income as defined in Section 62 of the Internal Revenue Code
16 of 1986, including any subsequent amendments in effect on December 31 of
17 the taxable year, and adjusted as follows:
- 18 1. Include interest income derived from obligations of sister states and
19 political subdivisions thereof; and
- 20 2. Include lump-sum pension distributions taxed under the special
21 transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or
- 22 (b) Adjusted gross income as defined in subsection (10) of this section and
23 adjusted to include lump-sum pension distributions taxed under the special
24 transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);
- 25 (9) "Gross income," in the case of taxpayers other than corporations, means "gross
26 income" as defined in Section 61 of the Internal Revenue Code;
- 27 (10) "Adjusted gross income," in the case of taxpayers other than corporations, means

1 gross income as defined in subsection (9) of this section minus the deductions
2 allowed individuals by Section 62 of the Internal Revenue Code and as modified by
3 KRS 141.0101 and adjusted as follows, except that deductions shall be limited to
4 amounts allocable to income subject to taxation under the provisions of this chapter,
5 and except that nothing in this chapter shall be construed to permit the same item to
6 be deducted more than once:

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

10 (b) Exclude income from supplemental annuities provided by the Railroad
11 Retirement Act of 1937 as amended and which are subject to federal income
12 tax by Public Law 89-699;

13 (c) Include interest income derived from obligations of sister states and political
14 subdivisions thereof;

15 (d) Exclude employee pension contributions picked up as provided for in KRS
16 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610,
17 and 161.540 upon a ruling by the Internal Revenue Service or the federal
18 courts that these contributions shall not be included as gross income until such
19 time as the contributions are distributed or made available to the employee;

20 (e) Exclude Social Security and railroad retirement benefits subject to federal
21 income tax;

22 (f) Include, for taxable years ending before January 1, 1991, all overpayments of
23 federal income tax refunded or credited for taxable years;

24 (g) Deduct, for taxable years ending before January 1, 1991, federal income tax
25 paid for taxable years ending before January 1, 1990;

26 (h) Exclude any money received because of a settlement or judgment in a lawsuit
27 brought against a manufacturer or distributor of "Agent Orange" for damages

1 resulting from exposure to Agent Orange by a member or veteran of the
2 Armed Forces of the United States or any dependent of such person who
3 served in Vietnam;

- 4 (i) 1. For taxable years ending prior to December 31, 2005, exclude the
5 applicable amount of total distributions from pension plans, annuity
6 contracts, profit-sharing plans, retirement plans, or employee savings
7 plans.

8 The "applicable amount" shall be:

- 9 a. Twenty-five percent (25%), but not more than six thousand two
10 hundred fifty dollars (\$6,250), for taxable years beginning after
11 December 31, 1994, and before January 1, 1996;
12 b. Fifty percent (50%), but not more than twelve thousand five
13 hundred dollars (\$12,500), for taxable years beginning after
14 December 31, 1995, and before January 1, 1997;
15 c. Seventy-five percent (75%), but not more than eighteen thousand
16 seven hundred fifty dollars (\$18,750), for taxable years beginning
17 after December 31, 1996, and before January 1, 1998; and
18 d. One hundred percent (100%), but not more than thirty-five
19 thousand dollars (\$35,000), for taxable years beginning after
20 December 31, 1997.

- 21 2. For taxable years beginning after December 31, 2005, and before
22 January 1, 2018, exclude up to forty-one thousand one hundred ten
23 dollars (\$41,110) of total distributions from pension plans, annuity
24 contracts, profit-sharing plans, retirement plans, or employee savings
25 plans.

- 26 3. a. For taxable years beginning on or after January 1, 2018,
27 exclude up to thirty-five thousand dollars (\$35,000) of total

distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans as follows:

i. If computed income is equal to or less than thirty-five thousand dollars (\$35,000), exclude up to thirty-five thousand dollars (\$35,000);

ii. If computed income is greater than thirty-five thousand dollars (\$35,000), but less than seventy thousand dollars (\$70,000), the exclusion shall be reduced one dollar (\$1) for every dollar computed income exceeds thirty-five thousand dollars (\$35,000); or

iii. If computed income is seventy thousand dollars (\$70,000) or greater, the exclusion shall be zero.

b. For purposes of this subparagraph, "computed income" means 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 subparagraph;

4. As used in this paragraph:

- a. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;
- b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and

- 1 c. "Pension plans, profit-sharing plans, retirement plans, or employee
2 savings plans" means any trust or other entity created or organized
3 under a written retirement plan and forming part of a stock bonus,
4 pension, or profit-sharing plan of a public or private employer for
5 the exclusive benefit of employees or their beneficiaries and
6 includes plans qualified or unqualified under Section 401 of the
7 Internal Revenue Code and individual retirement accounts as
8 defined in Section 408 of the Internal Revenue Code;
- 9 (j) 1. a. Exclude the portion of the distributive share of a shareholder's net
10 income from an S corporation subject to the franchise tax imposed
11 under KRS 136.505 or the capital stock tax imposed under KRS
12 136.300; and
- 13 b. Exclude the portion of the distributive share of a shareholder's net
14 income from an S corporation related to a qualified subchapter S
15 subsidiary subject to the franchise tax imposed under KRS
16 136.505 or the capital stock tax imposed under KRS 136.300.
- 17 2. The shareholder's basis of stock held in a S corporation where the S
18 corporation or its qualified subchapter S subsidiary is subject to the
19 franchise tax imposed under KRS 136.505 or the capital stock tax
20 imposed under KRS 136.300 shall be the same as the basis for federal
21 income tax purposes;
- 22 (k) Exclude, to the extent not already excluded from gross income, any amounts
23 paid for health insurance, or the value of any voucher or similar instrument
24 used to provide health insurance, which constitutes medical care coverage for
25 the taxpayer, the taxpayer's spouse, and dependents, or for any person
26 authorized to be provided excludable coverage by the taxpayer pursuant to the
27 federal Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-

1 148, or the Health Care and Education Reconciliation Act of 2010 Pub. L. No.
2 111-152, during the taxable year. Any amounts paid by the taxpayer for health
3 insurance that are excluded pursuant to this paragraph shall not be allowed as
4 a deduction in computing the taxpayer's net income under subsection (11) of
5 this section;

6 (l) Exclude income received for services performed as a precinct worker for
7 election training or for working at election booths in state, county, and local
8 primary, regular, or special elections;

9 (m) Exclude any amount paid during the taxable year for insurance for long-term
10 care as defined in KRS 304.14-600;

11 (n) Exclude any capital gains income attributable to property taken by eminent
12 domain;

13 (o) Exclude any amount received by a producer of tobacco or a tobacco quota
14 owner from the multistate settlement with the tobacco industry, known as the
15 Master Settlement Agreement, signed on November 22, 1998;

16 (p) Exclude any amount received from the secondary settlement fund, referred to
17 as "Phase II," established by tobacco companies to compensate tobacco
18 farmers and quota owners for anticipated financial losses caused by the
19 national tobacco settlement;

20 (q) Exclude any amount received from funds of the Commodity Credit
21 Corporation for the Tobacco Loss Assistance Program as a result of a
22 reduction in the quantity of tobacco quota allotted;

23 (r) Exclude any amount received as a result of a tobacco quota buydown program
24 that all quota owners and growers are eligible to participate in;

25 (s) Exclude state Phase II payments received by a producer of tobacco or a
26 tobacco quota owner;

27 (t) Exclude all income from all sources for active duty and reserve members and

- 1 officers of the Armed Forces of the United States or National Guard who are
2 killed in the line of duty, for the year during which the death occurred and the
3 year prior to the year during which the death occurred. For the purposes of this
4 paragraph, "all income from all sources" shall include all federal and state
5 death benefits payable to the estate or any beneficiaries; and
- 6 (u) For taxable years beginning on or after January 1, 2010, exclude all military
7 pay received by active duty members of the Armed Forces of the United
8 States, members of reserve components of the Armed Forces of the United
9 States, and members of the National Guard, including compensation for state
10 active duty as described in KRS 38.205;
- 11 (11) "Net income," in the case of taxpayers other than corporations, means adjusted
12 gross income as defined in subsection (10) of this section, minus:
- 13 (a) The deduction allowed by KRS 141.0202;
- 14 (b) Any amount paid for vouchers or similar instruments that provide health
15 insurance coverage to employees or their families;
- 16 (c) For taxable years beginning on or after January 1, 2010, and before January
17 1, 2017, the amount of domestic production activities deduction calculated at
18 six percent (6%) as allowed in Section 199(a)(2) of the Internal Revenue Code
19 for taxable years beginning before 2010; and
- 20 (d) 1. All the deductions allowed individuals by Chapter 1 of the Internal
21 Revenue Code as modified by KRS 141.0101, except:
- 22 a. Any deduction allowed by the Internal Revenue Code for state or
23 foreign taxes measured by gross or net income, including state and
24 local general sales taxes allowed in lieu of state and local income
25 taxes under the provisions of Section 164(b)(5) of the Internal
26 Revenue Code;
- 27 b. Any deduction allowed by the Internal Revenue Code for amounts

- allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);
- c. The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof;
- d. For taxable years beginning on or after January 1, 2010, the domestic production activities deduction allowed under Section 199 of the Internal Revenue Code;
- e. Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;
- f. Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under this chapter;

- 1 g. Itemized deductions as defined in Section 63 of the Internal
2 Revenue Code and modified by this section shall be limited to a
3 maximum amount of seventeen thousand five hundred dollars
4 (\$17,500), with the maximum amount adjusted in the same
5 manner as described in KRS 141.081(2), and the itemized
6 deduction limitation established in 26 U.S.C. sec. 68 shall be
7 determined using the applicable amount from 26 U.S.C. sec. 68 as
8 it existed on December 31, 2006; and
- 9 h. A taxpayer may elect to claim the standard deduction allowed by
10 KRS 141.081 instead of itemized deductions allowed pursuant to
11 26 U.S.C. sec. 63 and as modified by this section; and
- 12 2. Nothing in this chapter shall be construed to permit the same item to be
13 deducted more than once;
- 14 (12) "Gross income," in the case of corporations, means "gross income" as defined in
15 Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and
16 adjusted as follows:
- 17 (a) Exclude income that is exempt from state taxation by the Kentucky
18 Constitution and the Constitution and statutory laws of the United States;
- 19 (b) Exclude all dividend income received after December 31, 1969;
- 20 (c) Include interest income derived from obligations of sister states and political
21 subdivisions thereof;
- 22 (d) Exclude fifty percent (50%) of gross income derived from any disposal of coal
23 covered by Section 631(c) of the Internal Revenue Code if the corporation
24 does not claim any deduction for percentage depletion, or for expenditures
25 attributable to the making and administering of the contract under which such
26 disposition occurs or to the preservation of the economic interests retained
27 under such contract;

- 1 (e) Include in the gross income of lessors income tax payments made by lessees
2 to lessors, under the provisions of Section 110 of the Internal Revenue Code,
3 and exclude such payments from the gross income of lessees;
- 4 (f) Include the amount calculated under KRS 141.205;
- 5 (g) Ignore the provisions of Section 281 of the Internal Revenue Code in
6 computing gross income;
- 7 (h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal
8 Revenue Code);
- 9 (i) Exclude any amount received by a producer of tobacco or a tobacco quota
10 owner from the multistate settlement with the tobacco industry, known as the
11 Master Settlement Agreement, signed on November 22, 1998;
- 12 (j) Exclude any amount received from the secondary settlement fund, referred to
13 as "Phase II," established by tobacco companies to compensate tobacco
14 farmers and quota owners for anticipated financial losses caused by the
15 national tobacco settlement;
- 16 (k) Exclude any amount received from funds of the Commodity Credit
17 Corporation for the Tobacco Loss Assistance Program as a result of a
18 reduction in the quantity of tobacco quota allotted;
- 19 (l) Exclude any amount received as a result of a tobacco quota buydown program
20 that all quota owners and growers are eligible to participate in;
- 21 (m) For taxable years beginning after December 31, 2004, and before January 1,
22 2007, exclude the distributive share income or loss received from a
23 corporation defined in subsection (24)(b) of this section whose income has
24 been subject to the tax imposed by KRS 141.040. The exclusion provided in
25 this paragraph shall also apply to a taxable year that begins prior to January 1,
26 2005, if the tax imposed by KRS 141.040 is paid on the distributive share
27 income by a corporation defined in subparagraphs 2. to 8. of subsection

1 (24)(b) of this section with a return filed for a period of less than twelve (12)
2 months that begins on or after January 1, 2005, and ends on or before
3 December 31, 2005. This paragraph shall not be used to delay payment of the
4 tax imposed by KRS 141.040; and

5 (n) Exclude state Phase II payments received by a producer of tobacco or a
6 tobacco quota owner;

7 (13) "Net income," in the case of corporations, means "gross income" as defined in
8 subsection (12) of this section minus:

9 (a) The deduction allowed by KRS 141.0202;

10 (b) Any amount paid for vouchers or similar instruments that provide health
11 insurance coverage to employees or their families;

12 (c) For taxable years beginning on or after January 1, 2010, and before January
13 1, 2017, the amount of domestic production activities deduction calculated at
14 six percent (6%) as allowed in Section 199(a)(2) of the Internal Revenue Code
15 for taxable years beginning before 2010; and

16 (d) All the deductions from gross income allowed corporations by Chapter 1 of
17 the Internal Revenue Code and as modified by KRS 141.0101, except:

18 1. Any deduction for a state tax which is computed, in whole or in part, by
19 reference to gross or net income and which is paid or accrued to any
20 state of the United States, the District of Columbia, the Commonwealth
21 of Puerto Rico, any territory or possession of the United States, or to any
22 foreign country or political subdivision thereof;

23 2. The deductions contained in Sections 243, 244, 245, and 247 of the
24 Internal Revenue Code;

25 3. The provisions of Section 281 of the Internal Revenue Code shall be
26 ignored in computing net income;

27 4. Any deduction directly or indirectly allocable to income which is either

- 1 exempt from taxation or otherwise not taxed under the provisions of this
2 chapter, and nothing in this chapter shall be construed to permit the
3 same item to be deducted more than once;
- 4 5. Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of
5 the Internal Revenue Code);
- 6 6. Any deduction for amounts paid to any club, organization, or
7 establishment which has been determined by the courts or an agency
8 established by the General Assembly and charged with enforcing the
9 civil rights laws of the Commonwealth, not to afford full and equal
10 membership and full and equal enjoyment of its goods, services,
11 facilities, privileges, advantages, or accommodations to any person
12 because of race, color, religion, national origin, or sex, except nothing
13 shall be construed to deny a deduction for amounts paid to any religious
14 or denominational club, group, or establishment or any organization
15 operated solely for charitable or educational purposes which restricts
16 membership to persons of the same religion or denomination in order to
17 promote the religious principles for which it is established and
18 maintained;
- 19 7. Any deduction prohibited by KRS 141.205;
- 20 8. Any dividends-paid deduction of any captive real estate investment trust;
21 and
- 22 9. For taxable years beginning on or after January 1, 2010, the domestic
23 production activities deduction allowed under Section 199 of the
24 Internal Revenue Code;
- 25 (14) (a) "Taxable net income," in the case of corporations that are taxable in this state,
26 means "net income" as defined in subsection (13) of this section;
- 27 (b) "Taxable net income," in the case of corporations that are taxable in this state

1 and taxable in another state, means "net income" as defined in subsection (13)
2 of this section and as allocated and apportioned under KRS 141.120. A
3 corporation is taxable in another state if, in any state other than Kentucky, the
4 corporation is required to file a return for or pay a net income tax, franchise
5 tax measured by net income, franchise tax for the privilege of doing business,
6 or corporate stock tax;

7 (c) "Taxable net income," in the case of homeowners' associations as defined in
8 Section 528(c) of the Internal Revenue Code, means "taxable income" as
9 defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the
10 provisions of subsection (3) of this section, the Internal Revenue Code
11 sections referred to in this paragraph shall be those code sections in effect for
12 the applicable tax year; and

13 (d) "Taxable net income," in the case of a corporation that meets the requirements
14 established under Section 856 of the Internal Revenue Code to be a real estate
15 investment trust, means "real estate investment trust taxable income" as
16 defined in Section 857(b)(2) of the Internal Revenue Code, except that a
17 captive real estate investment trust shall not be allowed any deduction for
18 dividends paid;

19 (15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue
20 Code;

21 (16) "Taxable year" means the calendar year or fiscal year ending during such calendar
22 year, upon the basis of which net income is computed, and in the case of a return
23 made for a fractional part of a year under the provisions of this chapter or under
24 regulations prescribed by the commissioner, "taxable year" means the period for
25 which the return is made;

26 (17) "Resident" means an individual domiciled within this state or an individual who is
27 not domiciled in this state, but maintains a place of abode in this state and spends in

- 1 the aggregate more than one hundred eighty-three (183) days of the taxable year in
2 this state;
- 3 (18) "Nonresident" means any individual not a resident of this state;
- 4 (19) "Employer" means "employer" as defined in Section 3401(d) of the Internal
5 Revenue Code;
- 6 (20) "Employee" means "employee" as defined in Section 3401(c) of the Internal
7 Revenue Code;
- 8 (21) "Number of withholding exemptions claimed" means the number of withholding
9 exemptions claimed in a withholding exemption certificate in effect under KRS
10 141.325, except that if no such certificate is in effect, the number of withholding
11 exemptions claimed shall be considered to be zero;
- 12 (22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue
13 Code and includes other income subject to withholding as provided in Section
14 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;
- 15 (23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the
16 Internal Revenue Code;
- 17 (24) (a) For taxable years beginning before January 1, 2005, and after December 31,
18 2006, "corporation" means "corporation" as defined in Section 7701(a)(3) of
19 the Internal Revenue Code; and
- 20 (b) For taxable years beginning after December 31, 2004, and before January 1,
21 2007, "corporations" means:
- 22 1. "Corporations" as defined in Section 7701(a)(3) of the Internal Revenue
23 Code;
- 24 2. S corporations as defined in Section 1361(a) of the Internal Revenue
25 Code;
- 26 3. A foreign limited liability company as defined in KRS 275.015;
- 27 4. A limited liability company as defined in KRS 275.015;

- 1 5. A professional limited liability company as defined in KRS 275.015;
- 2 6. A foreign limited partnership as defined in KRS 362.2-102(9);
- 3 7. A limited partnership as defined in KRS 362.2-102(14);
- 4 8. A limited liability partnership as defined in KRS 362.155(7) or in 362.1-
- 5 101(7) or (8);
- 6 9. A real estate investment trust as defined in Section 856 of the Internal
- 7 Revenue Code;
- 8 10. A regulated investment company as defined in Section 851 of the
- 9 Internal Revenue Code;
- 10 11. A real estate mortgage investment conduit as defined in Section 860D of
- 11 the Internal Revenue Code;
- 12 12. A financial asset securitization investment trust as defined in Section
- 13 860L of the Internal Revenue Code; and
- 14 13. Other similar entities created with limited liability for their partners,
- 15 members, or shareholders.

16 For purposes of this paragraph, "corporation" shall not include any publicly
17 traded partnership as defined by Section 7704(b) of the Internal Revenue Code
18 that is treated as a partnership for federal tax purposes under Section 7704(c)
19 of the Internal Revenue Code or its publicly traded partnership affiliates. As
20 used in this paragraph, "publicly traded partnership affiliates" shall include
21 any limited liability company or limited partnership for which at least eighty
22 percent (80%) of the limited liability company member interests or limited
23 partner interests are owned directly or indirectly by the publicly traded
24 partnership;

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

- 26 (a) Being organized under the laws of this state;
- 27 (b) Having a commercial domicile in this state;

- 1 (c) Owning or leasing property in this state;
- 2 (d) Having one (1) or more individuals performing services in this state;
- 3 (e) Maintaining an interest in a pass-through entity doing business in this state;
- 4 (f) Deriving income from or attributable to sources within this state, including
- 5 deriving income directly or indirectly from a trust doing business in this state,
- 6 or deriving income directly or indirectly from a single-member limited
- 7 liability company that is doing business in this state and is disregarded as an
- 8 entity separate from its single member for federal income tax purposes; or
- 9 (g) Directing activities at Kentucky customers for the purpose of selling them
- 10 goods or services.
- 11 Nothing in this subsection shall be interpreted in a manner that goes beyond the
- 12 limitations imposed and protections provided by the United States Constitution or
- 13 Pub. L. No. 86-272;
- 14 (26) "Pass-through entity" means any partnership, S corporation, limited liability
- 15 company, limited liability partnership, limited partnership, or similar entity
- 16 recognized by the laws of this state that is not taxed for federal purposes at the
- 17 entity level, but instead passes to each partner, member, shareholder, or owner their
- 18 proportionate share of income, deductions, gains, losses, credits, and any other
- 19 similar attributes;
- 20 (27) "S corporation" means "S corporation" as defined in Section 1361(a) of the Internal
- 21 Revenue Code;
- 22 (28) "Limited liability pass-through entity" means any pass-through entity that affords
- 23 any of its partners, members, shareholders, or owners, through function of the laws
- 24 of this state or laws recognized by this state, protection from general liability for
- 25 actions of the entity;~~[-and]~~
- 26 (29) "Captive real estate investment trust" means a real estate investment trust as defined
- 27 in Section 856 of the Internal Revenue Code that meets the following requirements:

- 1 (a) 1. The shares or other ownership interests of the real estate investment trust
2 are not regularly traded on an established securities market; or
3 2. The real estate investment trust does not have enough shareholders or
4 owners to be required to register with the Securities and Exchange
5 Commission; and
6 (b) 1. The maximum amount of stock or other ownership interest that is owned
7 or constructively owned by a corporation equals or exceeds:
8 a. Twenty-five percent (25%), if the corporation does not occupy
9 property owned, constructively owned, or controlled by the real
10 estate investment trust; or
11 b. Ten percent (10%), if the corporation occupies property owned,
12 constructively owned, or controlled by the real estate investment
13 trust.
14 The total ownership interest of a corporation shall be determined by
15 aggregating all interests owned or constructively owned by a
16 corporation;
17 2. For the purposes of this paragraph:
18 a. "Corporation" means a corporation taxable under KRS 141.040,
19 and includes an affiliated group as defined in KRS 141.200, that is
20 required to file a consolidated return pursuant to the provisions of
21 KRS 141.200; and
22 b. "Owned or constructively owned" means owning shares or having
23 an ownership interest in the real estate investment trust, or owning
24 an interest in an entity that owns shares or has an ownership
25 interest in the real estate investment trust. Constructive ownership
26 shall be determined by looking across multiple layers of a
27 multilayer pass-through structure; and

- 1 (c) The real estate investment trust is not owned by another real estate investment
2 trust; and

3 **(30) "Taxpayer" means any person:**

4 **(a) Subject to the taxes imposed by this chapter; or**

5 **(b) Required to file a return under this chapter.**

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

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

- 11 (2) (a) For taxable years beginning before January 1, 2005, the tax shall be
12 determined by applying the following rates to net income:

- 13 1. Two percent (2%) of the amount of net income up to three thousand
14 dollars (\$3,000);
15 2. Three percent (3%) of the amount of net income over three thousand
16 dollars (\$3,000) and up to four thousand dollars (\$4,000);
17 3. Four percent (4%) of the amount of net income over four thousand
18 dollars (\$4,000) and up to five thousand dollars (\$5,000);
19 4. Five percent (5%) of the amount of net income over five thousand
20 dollars (\$5,000) and up to eight thousand dollars (\$8,000); and
21 5. Six percent (6%) of the amount of net income over eight thousand
22 dollars (\$8,000).

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

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

2. Three percent (3%) of the amount of net income over three thousand dollars (\$3,000) and up to four thousand dollars (\$4,000);
3. Four percent (4%) of the amount of net income over four thousand dollars (\$4,000) and up to five thousand dollars (\$5,000);
4. Five percent (5%) of the amount of net income over five thousand dollars (\$5,000) and up to eight thousand dollars (\$8,000);
5. Five and eight-tenths percent (5.8%) of the amount of net income over eight thousand dollars (\$8,000) and up to seventy-five thousand dollars (\$75,000); and
6. Six percent (6%) of the amount of net income over seventy-five thousand dollars (\$75,000).

(c) For taxable years beginning on or after January 1, 2018, the tax shall be determined by applying the following rates to net income:

- 1. Two percent (2%) of the amount of net income up to three thousand dollars (\$3,000);**
- 2. Three percent (3%) of the amount of net income over three thousand dollars (\$3,000) and up to four thousand dollars (\$4,000);**
- 3. Three and one-half percent (3.5%) of the amount of net income over four thousand dollars (\$4,000) and up to five thousand dollars (\$5,000);**
- 4. Four and one-half percent (4.5%) of the amount of net income over five thousand dollars (\$5,000) and up to eight thousand dollars (\$8,000);**
- 5. Five and one-half percent (5.5%) of the amount of net income over eight thousand dollars (\$8,000) and up to seventy-five thousand dollars (\$75,000);**
- 6. Six percent (6%) of the amount of net income over seventy-five**

thousand dollars (\$75,000) and up to one hundred fifty thousand dollars (\$150,000); and

7. Six and one-half percent (6.5%) of the amount of net income over one hundred fifty thousand dollars (\$150,000).

(3) (a) For taxable years beginning before January 1, 2014, the following tax credits, when applicable, shall be deducted from the result obtained under subsection (2) of this section to arrive at the annual tax:

1. Twenty dollars (\$20) for an unmarried individual;
2. Twenty dollars (\$20) for a married individual filing a separate return and an additional twenty dollars (\$20) for the spouse of taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, had no Kentucky gross income and is not the dependent of another taxpayer; or forty dollars (\$40) for married persons filing a joint return, provided neither spouse is the dependent of another taxpayer. The determination of marital status for the purpose of this section shall be made in the manner prescribed in Section 153 of the Internal Revenue Code;
3. Twenty dollars (\$20) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his spouse;
4. An additional forty dollars (\$40) credit if the taxpayer has attained the age of sixty-five (65) before the close of the taxable year;
5. An additional forty dollars (\$40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse has attained the age of sixty-five (65) before the close of the taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;

- 1 6. An additional forty dollars (\$40) credit if the taxpayer is blind at the
2 close of the taxable year;
- 3 7. An additional forty dollars (\$40) credit for taxpayer's spouse if a
4 separate return is made by the taxpayer and if the taxpayer's spouse is
5 blind, and, for the calendar year in which the taxable year of the taxpayer
6 begins, has no Kentucky gross income and is not the dependent of
7 another taxpayer;
- 8 8. In the case of nonresidents, the tax credits allowable under this
9 subsection shall be the portion of the credits that are represented by the
10 ratio of the taxpayer's Kentucky adjusted gross income as determined by
11 KRS 141.010(10), without the adjustments contained in (f) and (g) of
12 that subsection, to the taxpayer's adjusted gross income as defined in
13 Section 62 of the Internal Revenue Code. However, in the case of a
14 married nonresident taxpayer with income from Kentucky sources,
15 whose spouse has no income from Kentucky sources, the taxpayer shall
16 determine allowable tax credit(s) by either:
 - 17 a. The method contained above applied to the taxpayer's tax credit(s),
18 excluding credits for a spouse and dependents; or
 - 19 b. 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
21 Kentucky adjusted gross income as determined by KRS
22 141.010(10), without the adjustments contained in (f) and (g) of
23 that subsection, to the total joint federal adjusted gross income of
24 the taxpayer and the taxpayer's spouse;
- 25 9. In the case of an individual who becomes a resident of Kentucky during
26 the taxable year, the tax credits allowable under this subsection shall be
27 the portion of the credits represented by the ratio of the taxpayer's

1 Kentucky adjusted gross income as determined by subsection (10) of
2 KRS 141.010, without the adjustments contained in paragraphs (f) and
3 (g) of that subsection, to the taxpayer's adjusted gross income as defined
4 in Section 62 of the Internal Revenue Code;

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

7 11. In the case of an estate, the allowable tax credit shall be twenty dollars
8 (\$20); and

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

12 (b) 1. For taxable years beginning on or after January 1, 2014, the following
13 tax credits, when applicable, shall be deducted from the result obtained
14 under subsection (2) of this section to arrive at the annual tax:

15 a. Ten dollars (\$10) for an unmarried individual;

16 b. Ten dollars (\$10) for a married individual filing a separate return
17 and an additional ten dollars (\$10) for the spouse of taxpayer if a
18 separate return is made by the taxpayer and if the spouse, for the
19 calendar year in which the taxable year of the taxpayer begins, had
20 no Kentucky gross income and is not the dependent of another
21 taxpayer; or twenty dollars (\$20) for married persons filing a joint
22 return, provided neither spouse is the dependent of another
23 taxpayer. The determination of marital status for the purpose of
24 this section shall be made in the manner prescribed in Section 153
25 of the Internal Revenue Code;

26 c. Ten dollars (\$10) credit for each dependent. No credit shall be
27 allowed for any dependent who has made a joint return with his

1 spouse;

2 d. An additional forty dollars (\$40) credit if the taxpayer has attained
3 the age of sixty-five (65) before the close of the taxable year;

4 e. An additional forty dollars (\$40) credit for taxpayer's spouse if a
5 separate return is made by the taxpayer and if the taxpayer's spouse
6 has attained the age of sixty-five (65) before the close of the
7 taxable year, and, for the calendar year in which the taxable year of
8 the taxpayer begins, has no Kentucky gross income and is not the
9 dependent of another taxpayer;

10 f. An additional forty dollars (\$40) credit if the taxpayer is blind at
11 the close of the taxable year;

12 g. An additional forty dollars (\$40) credit for taxpayer's spouse if a
13 separate return is made by the taxpayer and if the taxpayer's spouse
14 is blind, and, for the calendar year in which the taxable year of the
15 taxpayer begins, has no Kentucky gross income and is not the
16 dependent of another taxpayer;

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

19 i. In the case of an estate, the allowable tax credit shall be ten dollars
20 (\$10); and

21 j. An additional twenty dollars (\$20) credit shall be allowed if the
22 taxpayer is a member of the Kentucky National Guard at the close
23 of the taxable year.

24 2. In the case of nonresidents, the tax credits allowable under this
25 subsection shall be the portion of the credits that are represented by the
26 ratio of the taxpayer's Kentucky adjusted gross income as determined by
27 KRS 141.010(10), without the adjustments contained in paragraphs (f)

- 1 and (g) of that subsection, to the taxpayer's adjusted gross income as
2 defined in Section 62 of the Internal Revenue Code. However, in the
3 case of a married nonresident taxpayer with income from Kentucky
4 sources, whose spouse has no income from Kentucky sources, the
5 taxpayer shall determine allowable tax credit(s) by either:
- 6 a. The method contained above applied to the taxpayer's tax credit(s),
7 excluding credits for a spouse and dependents; or
 - 8 b. Prorating the taxpayer's tax credit(s) plus the tax credits for the
9 taxpayer's spouse and dependents by the ratio of the taxpayer's
10 Kentucky adjusted gross income as determined by KRS
11 141.010(10), without the adjustments contained in paragraphs (f)
12 and (g) of that subsection, to the total joint federal adjusted gross
13 income of the taxpayer and the taxpayer's spouse.
- 14 3. In the case of an individual who becomes a resident of Kentucky during
15 the taxable year, the tax credits allowable under this subsection shall be
16 the portion of the credits represented by the ratio of the taxpayer's
17 Kentucky adjusted gross income as determined by KRS 141.010(10),
18 without the adjustments contained in paragraphs (f) and (g) of that
19 subsection, to the taxpayer's adjusted gross income as defined in Section
20 62 of the Internal Revenue Code.
- 21 (4) An annual tax shall be paid for each taxable year as specified in this section upon
22 the entire net income except as herein provided, from all tangible property located
23 in this state, from all intangible property that has acquired a business situs in this
24 state, and from business, trade, profession, occupation, or other activities carried on
25 in this state, by natural persons not residents of this state. A nonresident individual
26 shall be taxable only upon the amount of income received by the individual from
27 labor performed, business done, or from other activities in this state, from tangible

1 property located in this state, and from intangible property which has acquired a
2 business situs in this state; provided, however, that the situs of intangible personal
3 property shall be at the residence of the real or beneficial owner and not at the
4 residence of a trustee having custody or possession thereof. The remainder of the
5 income received by such nonresident shall be deemed nontaxable by this state.

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

8 (6) An individual who becomes a resident of Kentucky during the taxable year is
9 subject to taxation as prescribed in subsection (4) of this section prior to
10 establishing residence and as prescribed in subsection (1) of this section following
11 the establishment of residence.

12 (7) An individual who becomes a nonresident of Kentucky during the taxable year is
13 subject to taxation, as prescribed in subsection (1) of this section, during that
14 portion of the taxable year that the individual is a resident and, as prescribed in
15 subsection (4) of this section, during that portion of the taxable year when the
16 individual is a nonresident.

17 ➔Section 4. KRS 141.066 is amended to read as follows:

18 (1) As used in this section:

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

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

27 (c) "Qualifying individual" means an individual whose filing status is single or

1 married filing separately if during the taxable year the individual's spouse is
2 not a member of the household;

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

7 (e) "Threshold amount" means:

- 8 1. For a qualifying individual with no qualifying dependent children, the
9 federal poverty level established for a family unit size of one (1):
- 10 2. For a qualifying individual with one (1) qualifying dependent child or a
11 qualifying married couple with no qualifying dependent children, the
12 federal poverty level established for a family unit size of two (2);
- 13 3. For a qualifying individual with two (2) qualifying dependent children or
14 a qualifying married couple with one (1) qualifying dependent child, the
15 federal poverty level established for a family unit size of three (3);
- 16 4. For a qualifying individual with (3) or more qualifying dependent
17 children or a qualifying married couple with two (2) or more qualifying
18 dependent children, the federal poverty level established for a family
19 unit size of four (4).

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

26 (b) For a husband and wife filing jointly, the "low income" tax credit shall be
27 computed on the basis of their joint adjusted gross income and shall be

1 applied against their joint tax liability. For a husband and wife living together,
 2 whether filing separate returns or filing separately on a combined return, the
 3 "low income" credit shall be computed on the basis of their combined adjusted
 4 gross income, except that a separately computed gross income of less than
 5 zero shall be treated as zero, and shall be applied against their combined tax
 6 liability.

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

AMOUNT OF ADJUSTED GROSS INCOME	PERCENT OF TAX LIABILITY ALLOWED AS LOW INCOME TAX CREDIT
not over \$5,000	100%
over \$ 5,000 but not over \$10,000	50%
over \$10,000 but not over \$15,000	25%
over \$15,000 but not over \$20,000	15%
over \$20,000 but not over \$25,000	5%
over \$25,000	-0-

17 (3) (a) For taxable years beginning after December 31, 2004, qualifying taxpayers
 18 whose modified gross income is below one hundred thirty-three percent
 19 (133%) of the threshold amount shall be entitled to a nonrefundable family
 20 size tax credit. The family size tax credit shall be applied against the
 21 taxpayer's tax liability calculated under KRS 141.020. The family size tax
 22 credit shall not reduce the taxpayer's tax liability below zero.

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

26 (c) For qualifying taxpayers whose modified gross income exceeds the threshold
 27 amount but is below one hundred thirty-three percent (133%) of the threshold

1 amount, the family size tax credit shall be equal to the amount of the
2 taxpayer's individual income tax liability multiplied by a percentage as
3 follows:

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

1 the threshold amount, the credit percentage shall be twenty percent
2 (20%);

3 9. If modified gross income is above one hundred thirty percent (130%) but
4 less than or equal to one hundred thirty-three percent (133%) of the
5 threshold amount, the credit percentage shall be ten percent (10%);

6 10. If modified gross income is above one hundred thirty-three percent
7 (133%) of the threshold amount, the credit percentage shall be zero.

8 (4) For a qualifying married couple filing jointly, the family size tax credit allowed in
9 subsection (3) of this section shall be computed on the basis of their joint modified
10 gross income and shall be applied against their joint tax liability. For a qualifying
11 married couple living together, whether filing separate returns or filing separately
12 on a combined return, the family size tax credit shall be computed on the basis of
13 their combined modified gross income, except that a separately computed modified
14 gross income of less than zero shall be treated as zero, and shall be applied against
15 their combined tax liability.

16 (5) For taxable years beginning on or after January 1, 2018, taxpayers who are
17 subject to the tax imposed by Section 3 of this Act and who receive a federal
18 earned income tax credit as permitted by 26 U.S.C. sec. 32 shall be allowed a
19 refundable Kentucky earned income tax credit in addition to the family size tax
20 credit allowed by subsection (3) of this section. The Kentucky earned income tax
21 credit shall be equal to fifteen percent (15%) of the allowed federal earned
22 income tax credit and shall be taken against the tax due under Section 3 of this
23 Act.

24 ➔Section 5. KRS 141.0205 is amended to read as follows:

25 If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax
26 imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of
27 the credits shall be determined as follows:

- 1 (1) The nonrefundable business incentive credits against the tax imposed by KRS
2 141.020 shall be taken in the following order:
- 3 (a) 1. For taxable years beginning after December 31, 2004, and before
4 January 1, 2007, the corporation income tax credit permitted by KRS
5 141.420(3)(a);
- 6 2. For taxable years beginning after December 31, 2006, the limited
7 liability entity tax credit permitted by KRS 141.0401;
- 8 (b) The economic development credits computed under KRS 141.347, 141.381,
9 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-
10 2088, and 154.27-080;
- 11 (c) The qualified farming operation credit permitted by KRS 141.412;
- 12 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 13 (e) The health insurance credit permitted by KRS 141.062;
- 14 (f) The tax paid to other states credit permitted by KRS 141.070;
- 15 (g) The credit for hiring the unemployed permitted by KRS 141.065;
- 16 (h) The recycling or composting equipment credit permitted by KRS 141.390;
- 17 (i) The tax credit for cash contributions in investment funds permitted by KRS
18 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
19 154.20-258;
- 20 (j) The coal incentive credit permitted ~~by~~under KRS 141.0405;
- 21 (k) The research facilities credit permitted ~~by~~under KRS 141.395;
- 22 (l) The employer GED incentive credit permitted ~~by~~under KRS 164.0062;
- 23 (m) The voluntary environmental remediation credit permitted by KRS 141.418;
- 24 (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 25 (o) The environmental stewardship credit permitted by KRS 154.48-025;
- 26 (p) The clean coal incentive credit permitted by KRS 141.428;
- 27 (q) The ethanol credit permitted by KRS 141.4242;

- 1 (r) The cellulosic ethanol credit permitted by KRS 141.4244;
- 2 (s) The energy efficiency credits permitted by KRS 141.436;
- 3 (t) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 4 (u) The Endow Kentucky credit permitted by KRS 141.438;
- 5 (v) The New Markets Development Program credit permitted by KRS 141.434;
- 6 (w) The food donation credit permitted by KRS 141.392;
- 7 (x) The distilled spirits credit permitted by KRS 141.389;~~[-and]~~
- 8 (y) The angel investor credit permitted by KRS 141.396; and
- 9 (z) The film industry tax credit permitted by Section 16 of this Act.
- 10 (2) After the application of the nonrefundable credits in subsection (1) of this section,
- 11 the nonrefundable personal tax credits against the tax imposed by KRS 141.020
- 12 shall be taken in the following order:
- 13 (a) The individual credits permitted by KRS 141.020(3);
- 14 (b) The credit permitted by KRS 141.066(2) or (3);
- 15 (c) The tuition credit permitted by KRS 141.069;
- 16 (d) The household and dependent care credit permitted by KRS 141.067; and
- 17 (e) The new home credit permitted by KRS 141.388.
- 18 (3) After the application of the nonrefundable credits provided for in subsection (2) of
- 19 this section, the refundable credits against the tax imposed by KRS 141.020 shall be
- 20 taken in the following order:
- 21 (a) The individual withholding tax credit permitted by KRS 141.350;
- 22 (b) The individual estimated tax payment credit permitted by KRS 141.305;
- 23 (c) For taxable years beginning after December 31, 2004, and before January 1,
- 24 2007, the corporation income tax credit permitted by KRS 141.420(3)(c);
- 25 (d) The certified rehabilitation credit permitted by KRS 171.3961 and
- 26 171.397(1)(b); and
- 27 (e) The earned income tax credit permitted by subsection (5) of Section 4 of this

1 ~~Act~~~~[film industry tax credit allowed by KRS 141.383].~~

- 2 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the
3 tax imposed by KRS 141.040.
- 4 (5) The following nonrefundable credits shall be applied against the sum of the tax
5 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)
6 of this section, and the tax imposed by KRS 141.0401 in the following order:
- 7 (a) The economic development credits computed under KRS 141.347, 141.381,
8 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-
9 2088, and 154.27-080;
- 10 (b) The qualified farming operation credit permitted by KRS 141.412;
- 11 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 12 (d) The health insurance credit permitted by KRS 141.062;
- 13 (e) The unemployment credit permitted by KRS 141.065;
- 14 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 15 (g) The coal conversion credit permitted by KRS 141.041;
- 16 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods
17 ending prior to January 1, 2008;
- 18 (i) The tax credit for cash contributions to investment funds permitted by KRS
19 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
20 154.20-258;
- 21 (j) The coal incentive credit permitted ~~by~~~~under~~ KRS 141.0405;
- 22 (k) The research facilities credit permitted ~~by~~~~under~~ KRS 141.395;
- 23 (l) The employer GED incentive credit permitted ~~by~~~~under~~ KRS 164.0062;
- 24 (m) The voluntary environmental remediation credit permitted by KRS 141.418;
- 25 (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 26 (o) The environmental stewardship credit permitted by KRS 154.48-025;
- 27 (p) The clean coal incentive credit permitted by KRS 141.428;

- 1 (q) The ethanol credit permitted by KRS 141.4242;
- 2 (r) The cellulosic ethanol credit permitted by KRS 141.4244;
- 3 (s) The energy efficiency credits permitted by KRS 141.436;
- 4 (t) The ENERGY STAR home or ENERGY STAR manufactured home credit
- 5 permitted by KRS 141.437;
- 6 (u) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 7 (v) The railroad expansion credit permitted by KRS 141.386;
- 8 (w) The Endow Kentucky credit permitted by KRS 141.438;
- 9 (x) The New Markets Development Program credit permitted by KRS 141.434;
- 10 (y) The food donation credit permitted by KRS 141.392;~~[-and]~~
- 11 (z) The distilled spirits credit permitted by KRS 141.389; and
- 12 (aa) The film industry tax credit permitted by Section 16 of this Act.

13 (6) After the application of the nonrefundable credits in subsection (5) of this section,
 14 the refundable credits shall be taken in the following order:

- 15 (a) The corporation estimated tax payment credit permitted by KRS 141.044; and
- 16 (b) The certified rehabilitation credit permitted by KRS 171.3961 and
- 17 171.397(1)(b)~~[-and]~~
- 18 ~~(c) The film industry tax credit allowed in KRS 141.383].~~

19 ➔Section 6. KRS 141.0401 is amended to read as follows:

20 (1) As used in this section:

- 21 (a) "Kentucky gross receipts" means an amount equal to the computation of the
- 22 numerator of the sales factor under the provisions of KRS 141.120~~(11)~~ to
- 23 (13)~~[(8)(c)]~~, KRS 141.120~~(14)~~~~[(9)]~~, any administrative regulations related to
- 24 the computation of the sales factor, and KRS 141.121 and includes the
- 25 proportionate share of Kentucky gross receipts of all wholly or partially
- 26 owned limited liability pass-through entities, including all layers of a multi-
- 27 layered pass-through structure;

- 1 (b) "Gross receipts from all sources" means an amount equal to the computation
2 of the denominator of the sales factor under the provisions of KRS
3 141.120~~(11) to (13)~~~~[(8)(e)]~~, KRS 141.120~~(14)~~~~[(9)]~~, any administrative
4 regulations related to the computation of the sales factor, and KRS 141.121
5 and includes the proportionate share of gross receipts from all sources of all
6 wholly or partially owned limited liability pass-through entities, including all
7 layers of a multi-layered pass-through structure;
- 8 (c) "Combined group" means all members of an affiliated group as defined in
9 KRS 141.200(9)(b) and all limited liability pass-through entities that would be
10 included in an affiliated group if organized as a corporation;
- 11 (d) "Cost of goods sold" means:
- 12 1. Amounts that are:
- 13 a. Allowable as cost of goods sold pursuant to the Internal Revenue
14 Code and any guidelines issued by the Internal Revenue Service
15 relating to cost of goods sold, unless modified by this paragraph;
16 and
- 17 b. Incurred in acquiring or producing the tangible product generating
18 the Kentucky gross receipts.
- 19 2. For manufacturing, producing, reselling, retailing, or wholesaling
20 activities, cost of goods sold shall only include costs directly incurred in
21 acquiring or producing the tangible product. In determining cost of
22 goods sold:
- 23 a. Labor costs shall be limited to direct labor costs as defined in
24 paragraph (f) of this subsection;
- 25 b. Bulk delivery costs as defined in paragraph (g) of this subsection
26 may be included; and
- 27 c. Costs allowable under Section 263A of the Internal Revenue Code

1 may be included only to the extent the costs are incurred in
2 acquiring or producing the tangible product generating the
3 Kentucky gross receipts. Notwithstanding the foregoing, indirect
4 labor costs allowable under Section 263A shall not be included;

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

7 As used in this paragraph, "guidelines issued by the Internal Revenue Service"
8 includes regulations, private letter rulings, or any other guidance issued by the
9 Internal Revenue Service that may be relied upon by taxpayers under reliance
10 standards established by the Internal Revenue Service;

- 11 (e) 1. "Kentucky gross profits" means Kentucky gross receipts reduced by
12 returns and allowances attributable to Kentucky gross receipts, less the
13 cost of goods sold attributable to Kentucky gross receipts. If the amount
14 of returns and allowances attributable to Kentucky gross receipts and the
15 cost of goods sold attributable to Kentucky gross receipts is zero, then
16 "Kentucky gross profits" means Kentucky gross receipts; and

- 17 2. "Gross profits from all sources" means gross receipts from all sources
18 reduced by returns and allowances attributable to gross receipts from all
19 sources, less the cost of goods sold attributable to gross receipts from all
20 sources. If the amount of returns and allowances attributable to gross
21 receipts from all sources and the cost of goods sold attributable to gross
22 receipts from all sources is zero, then gross profits from all sources
23 means gross receipts from all sources;

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

- 26 (g) "Bulk delivery costs" means the cost of delivering the product to the consumer
27 if:

- 1 1. The tangible product is delivered in bulk and requires specialized
2 equipment that generally precludes commercial shipping; and
3 2. The tangible product is taxable under KRS 138.220;
- 4 (h) "Manufacturing" and "producing" means:
- 5 1. Manufacturing, producing, constructing, or assembling components to
6 produce a significantly different or enhanced end tangible product;
7 2. Mining or severing natural resources from the earth; or
8 3. Growing or raising agricultural or horticultural products or animals;
- 9 (i) "Real property" means land and anything growing on, attached to, or erected
10 on it, excluding anything that may be severed without injury to the land;
- 11 (j) "Reselling," "retailing," and "wholesaling" mean the sale of a tangible
12 product;
- 13 (k) "Tangible personal property" means property, other than real property, that has
14 physical form and characteristics; and
- 15 (l) "Tangible product" means real property and tangible personal property;
- 16 (2) (a) For taxable years beginning on or after January 1, 2007, an annual limited
17 liability entity tax shall be paid by every corporation and every limited liability
18 pass-through entity doing business in Kentucky on all Kentucky gross receipts
19 or Kentucky gross profits except as provided in this subsection. A small
20 business exclusion from this tax shall be provided based on the reduction
21 contained in this subsection. The tax shall be the greater of the amount
22 computed under paragraph (b) or (c) of this subsection or one hundred
23 seventy-five dollars (\$175), regardless of the application of any tax credits
24 provided under this chapter or any other provisions of the Kentucky Revised
25 Statutes for which the business entity may qualify.
- 26 (b) *For taxable years beginning before January 1, 2018,* the limited liability
27 entity tax shall be the lesser of subparagraph 1. or 2. of this paragraph:

- 1 1. a. If the corporation's or limited liability pass-through entity's gross
2 receipts from all sources are three million dollars (\$3,000,000) or
3 less, the limited liability entity tax shall be zero;
- 4 b. If the corporation's or limited liability pass-through entity's gross
5 receipts from all sources are greater than three million dollars
6 (\$3,000,000) but less than six million dollars (\$6,000,000), the
7 limited liability entity tax shall be nine and one-half cents (\$0.095)
8 per one hundred dollars (\$100) of the corporation's or limited
9 liability pass-through entity's Kentucky gross receipts reduced by
10 an amount equal to two thousand eight hundred fifty dollars
11 (\$2,850) multiplied by a fraction, the numerator of which is six
12 million dollars (\$6,000,000) less the amount of the corporation's or
13 limited liability pass-through entity's Kentucky gross receipts for
14 the taxable year, and the denominator of which is three million
15 dollars (\$3,000,000), but in no case shall the result be less than
16 zero;
- 17 c. If the corporation's or limited liability pass-through entity's gross
18 receipts from all sources are equal to or greater than six million
19 dollars (\$6,000,000), the limited liability entity tax shall be nine
20 and one-half cents (\$0.095) per one hundred dollars (\$100) of the
21 corporation's or limited liability pass-through entity's Kentucky
22 gross receipts.
- 23 2. a. If the corporation's or limited liability pass-through entity's gross
24 profits from all sources are three million dollars (\$3,000,000) or
25 less, the limited liability entity tax shall be zero;
- 26 b. If the corporation's or limited liability pass-through entity's gross
27 profits from all sources are at least three million dollars

1 (\$3,000,000) but less than six million dollars (\$6,000,000), the
2 limited liability entity tax shall be seventy-five cents (\$0.75) per
3 one hundred dollars (\$100) of the corporation's or limited liability
4 pass-through entity's Kentucky gross profits, reduced by an amount
5 equal to twenty-two thousand five hundred dollars (\$22,500)
6 multiplied by a fraction, the numerator of which is six million
7 dollars (\$6,000,000) less the amount of the corporation's or limited
8 liability pass-through entity's Kentucky gross profits, and the
9 denominator of which is three million dollars (\$3,000,000), but in
10 no case shall the result be less than zero;

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

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

- 21 (c) For taxable years beginning on or after January 1, 2018, the limited
22 liability entity tax shall be the lesser of subparagraph 1. or 2. of this
23 paragraph:

- 24 1. a. If the corporation's or limited liability pass-through entity's
25 gross receipts from all sources are one million dollars
26 (\$1,000,000) or less, the limited liability entity tax shall be zero;
27 b. If the corporation's or limited liability pass-through entity's

1 gross receipts from all sources are greater than one million
2 dollars (\$1,000,000) but less than two million dollars
3 (\$2,000,000), the limited liability entity tax shall be nine and
4 one-half cents (\$0.095) per one hundred dollars (\$100) of the
5 corporation's or limited liability pass-through entity's Kentucky
6 gross receipts reduced by an amount equal to nine hundred fifty
7 dollars (\$950) multiplied by a fraction, the numerator of which is
8 two million dollars (\$2,000,000) less the amount of the
9 corporation's or limited liability pass-through entity's Kentucky
10 gross receipts for the taxable year, and the denominator of which
11 is one million dollars (\$1,000,000), but in no case shall the result
12 be less than zero; and

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

19 2. a. If the corporation's or limited liability pass-through entity's
20 gross profits from all sources are one million dollars
21 (\$1,000,000) or less, the limited liability entity tax shall be zero;

22 b. If the corporation's or limited liability pass-through entity's
23 gross profits from all sources are at least one million dollars
24 (\$1,000,000) but less than two million dollars (\$2,000,000), the
25 limited liability entity tax shall be seventy-five cents (\$0.75) per
26 one hundred dollars (\$100) of the corporation's or limited
27 liability pass-through entity's Kentucky gross profits, reduced by

1 an amount equal to seven thousand five hundred dollars
2 (\$7,500) multiplied by a fraction, the numerator of which is two
3 million dollars (\$2,000,000) less the amount of the corporation's
4 or limited liability pass-through entity's Kentucky gross profits,
5 and the denominator of which is one million dollars
6 (\$1,000,000), but in no case shall the result be less than zero;
7 and

8 c. If the corporation's or limited liability pass-through entity's
9 gross profits from all sources are equal to or greater than two
10 million dollars (\$2,000,000), the limited liability entity tax shall
11 be seventy-five cents (\$0.75) per one hundred dollars (\$100) of
12 all of the corporation's or limited liability pass-through entity's
13 Kentucky gross profits.

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

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

1 each layer.

2 ~~(e)(4)~~ The department may promulgate administrative regulations to establish a
3 method for calculating the cost of goods sold attributable to Kentucky.

4 (3) A nonrefundable credit based on the tax calculated under subsection (2) of this
5 section shall be allowed against the tax imposed by KRS 141.020 or 141.040. The
6 credit amount shall be determined as follows:

7 (a) The credit allowed a corporation subject to the tax imposed by KRS 141.040
8 shall be equal to the amount of tax calculated under subsection (2) of this
9 section for the current year after subtraction of any credits identified in KRS
10 141.0205, reduced by the minimum tax of one hundred seventy-five dollars
11 (\$175), plus any credit determined in paragraph (b) of this subsection for tax
12 paid by wholly or partially owned limited liability pass-through entities. The
13 amount of credit allowed to a corporation based on the amount of tax paid
14 under subsection (2) of this section for the current year shall be applied to the
15 income tax due from the corporation's activities in this state. Any remaining
16 credit from the corporation shall be disallowed.

17 (b) The credit allowed members, shareholders, or partners of a limited liability
18 pass-through entity shall be the members', shareholders', or partners'
19 proportionate share of the tax calculated under subsection (2) of this section
20 for the current year after subtraction of any credits identified in KRS
21 141.0205, as determined after the amount of tax paid has been reduced by the
22 minimum tax of one hundred seventy-five dollars (\$175). The credit allowed
23 to members, shareholders, or partners of a limited liability pass-through entity
24 shall be applied to income tax assessed on income from the limited liability
25 pass-through entity. Any remaining credit from the limited liability pass-
26 through entity shall be disallowed.

27 (4) Each taxpayer subject to the tax imposed in this section shall file a return, on forms

1 prepared by the department, on or before the fifteenth day of the fourth month
2 following the close of the taxpayer's taxable year. Any tax remaining due after
3 making the payments required in KRS 141.042 shall be paid by the original due
4 date of the return.

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

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

- 8 (a) Financial institutions, as defined in KRS 136.500, except banker's banks
9 organized under KRS 287.135 or 286.3-135;
- 10 (b) Savings and loan associations organized under the laws of this state and under
11 the laws of the United States and making loans to members only;
- 12 (c) Banks for cooperatives;
- 13 (d) Production credit associations;
- 14 (e) Insurance companies, including farmers' or other mutual hail, cyclone,
15 windstorm, or fire insurance companies, insurers, and reciprocal underwriters;
- 16 (f) Corporations or other entities exempt under Section 501 of the Internal
17 Revenue Code;
- 18 (g) Religious, educational, charitable, or like corporations not organized or
19 conducted for pecuniary profit;
- 20 (h) Corporations whose only owned or leased property located in this state is
21 located at the premises of a printer with which it has contracted for printing,
22 provided that:
- 23 1. The property consists of the final printed product, or copy from which
24 the printed product is produced; and
- 25 2. The corporation has no individuals receiving compensation in this state
26 as provided in KRS 141.120~~(10)(8)(b)~~;
- 27 (i) Public service corporations subject to tax under KRS 136.120;

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

1 partnership.

2 (7) (a) As used in this subsection, "qualified exempt organization" means an entity
3 listed in subsection (6)(a) to (r) of this section and shall not include any entity
4 whose exempt status has been disallowed by the Internal Revenue Service.

5 (b) Notwithstanding any other provisions of this section, any limited liability
6 pass-through entity that is owned in whole or in part by a qualified exempt
7 organization shall, in calculating its Kentucky gross receipts or Kentucky
8 gross profits, exclude the proportionate share of its Kentucky gross receipts or
9 Kentucky gross profits attributable to the ownership interest of the qualified
10 exempt organization.

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

16 (d) The department ~~of Revenue~~ may promulgate an administrative regulation to
17 further define "qualified exempt organization" to include an entity for which
18 exemption is constitutionally or legally required, or to exclude any entity
19 created primarily for tax avoidance purposes with no legitimate business
20 purpose.

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

25 ➔Section 7. KRS 136.310 is amended to read as follows:

26 (1) Every federally or state chartered savings and loan association, savings bank, and
27 other similar institution authorized to transact business in this state, with property

1 and payroll within and without this state, shall, during January of each year, file
2 with the Department of Revenue a report containing information and in such form
3 as the department may require.

4 (2) The Department of Revenue shall fix the fair cash value, as of January 1 of each
5 year, of the capital attributable to Kentucky in each financial institution included in
6 subsection (1) of this section. The methodology employed by the department shall
7 be a three (3) step process as follows:

8 (a) 1. The total value of deposits maintained in Kentucky less any amounts
9 where the amount borrowed by a member equals or exceeds the amount
10 deposited by that member shall be determined.

11 2. The total value of deposits maintained in Kentucky shall be determined
12 by the same method used for filing the summary of deposits report with
13 the Federal Deposit Insurance Corporation;

14 (b) 1. The Kentucky apportioned value of capital shall be determined by
15 including undivided profits, surplus, general reserves, and paid-up stock.

16 2. For Agricultural Credit Associations chartered by the Farm Credit
17 Administration, capital shall be computed by deducting the book value
18 of the association's investment in any other wholly owned institution
19 chartered by the Farm Credit Administration that is either subject to the
20 tax imposed by KRS 136.300 or this section or that is exempt from state
21 taxation by federal law.

22 3. The Kentucky value of capital shall be determined by a fraction, the
23 numerator of which is the receipts factor plus the outstanding loan
24 balance factor plus the payroll factor, and the denominator of which is
25 three (3); and

26 (c) 1. The values determined in steps (a) and (b) of this subsection shall be
27 added together to determine total Kentucky capital and then reduced by

1 the influence of ownership in tax-exempt United States obligations to
2 determine Kentucky taxable capital.

3 2. The influence of tax-exempt United States obligations is to be
4 determined from the reports of condition filed with the applicable
5 supervisory agency as follows: the average amount of tax-exempt United
6 States obligations for the calendar year, over the average amount of total
7 assets for the calendar year multiplied by total Kentucky capital.

8 3. The department shall immediately notify each institution of the value so
9 fixed.

10 (3) The receipts factor specified in subsection (2)(b) of this section is a fraction, the
11 numerator of which is all receipts derived from loans and other sources negotiated
12 through offices or derived from customers in Kentucky, and the denominator of
13 which is total business receipts for the preceding calendar year.

14 (4) (a) The outstanding loan balance factor specified in subsection (2)(b) of this
15 section is a fraction, the numerator of which is the average balance of
16 outstanding loans negotiated from offices or made to customers in Kentucky,
17 and the denominator of which is the average balance of all outstanding loans.

18 (b) 1. The average outstanding loan balance is determined by adding the
19 outstanding loan balance at the beginning of the preceding calendar year
20 to the outstanding loan balance at the end of the preceding calendar year
21 and dividing by two (2).

22 2. If the yearly beginning balance and ending balance results in an
23 inequitable factor, the average outstanding loan balance may be
24 computed on a monthly average balance.

25 (5) The payroll factor specified in subsection (2)(b) of this section shall be determined
26 for the preceding calendar year under the provisions of KRS 141.120~~(10)(8)(b)~~
27 and administrative regulations promulgated according to KRS Chapter 13A.

- 1 (6) (a) By July 1 succeeding the filing of the report as provided in subsection (1) of
2 this section, each financial institution included in subsection (1) of this section
3 shall pay directly into the State Treasury a tax of one dollar (\$1) for each one
4 thousand dollars (\$1,000) paid in on its Kentucky taxable capital as fixed in
5 subsection (2)(c) of this section.
- 6 (b) The institution shall not be required to pay local taxes upon its capital stock,
7 surplus, undivided profits, notes, mortgages, or other credits, and the tax
8 provided by this section shall be in lieu of all taxes for state purposes on
9 intangible property of the institution, nor shall any depositor of the institution
10 be required to list his deposits for taxation under KRS 132.020.
- 11 (c) Failure to make reports and pay taxes as provided in this section shall subject
12 the institution to the same penalties imposed for such failure on the part of the
13 other corporations.
- 14 (7) If a financial institution included in subsection (1) of this section selects, it may
15 deduct taxes imposed in subsection (6) of this section from the dividends paid or
16 credited to a nonborrowing shareholder.
- 17 (8) (a) Every Agricultural Credit Association chartered by the Farm Credit
18 Administration being authorized to transact business in Kentucky but having
19 no employees located within or without the state shall be subject to the same
20 tax imposed pursuant to either KRS 136.300 or this section as that imposed
21 upon its wholly owned Production Credit Association subsidiary.
- 22 (b) For purposes of computing Kentucky apportioned value of capital pursuant to
23 subsection (2) of this section, those Agricultural Credit Associations subject to
24 the tax imposed by this section shall utilize that Kentucky apportionment
25 fraction computed and utilized by its wholly owned Production Credit
26 Association subsidiary for the same report period.
- 27 ➔Section 8. KRS 136.530 is amended to read as follows:

- 1 (1) The receipts factor is a fraction, the numerator of which is the receipts of the
2 financial institution in this Commonwealth during the taxable year as determined by
3 subsection (2) of this section and the denominator of which is the receipts of the
4 financial institution within and without this Commonwealth during the taxable year.
5 Receipts shall include the following:
- 6 (a) Receipts from the lease or rental of real property owned by the financial
7 institution;
 - 8 (b) Receipts from the lease or rental of tangible personal property owned by the
9 financial institution;
 - 10 (c) Interest and fees or penalties in the nature of interest from loans secured by
11 real property;
 - 12 (d) Interest and fees or penalties in the nature of interest from loans not secured
13 by real property;
 - 14 (e) Net gains from the sale of loans. Net gains from the sale of loans includes
15 income recorded under the coupon stripping rules of Section 1286 of the
16 Internal Revenue Code;
 - 17 (f) Interest and fees or penalties in the nature of interest from credit card
18 receivables and receipts from fees charged to card holders, such as annual
19 fees;
 - 20 (g) Net gains, but not less than zero (0), from the sale of credit card receivables;
 - 21 (h) All credit card issuer's reimbursement fees;
 - 22 (i) Receipts from merchant discount. Receipts from merchant discount shall be
23 computed net of any cardholder charge backs, but shall not be reduced by any
24 interchange transaction fees or by any issuer's reimbursement fees paid to
25 another for charges made by its card holders;
 - 26 (j) Loan servicing fees derived from loans secured by real property;
 - 27 (k) Loan servicing fees derived from loans not secured by real property;

- 1 (l) Interest, dividends, net gains, but not less than zero (0), and other income
2 from investment assets and activities and from trading assets and activities.
3 Investment assets and activities and trading assets and activities include but
4 are not limited to investment securities, trading account assets, federal funds,
5 securities purchased and sold under agreements to resell or repurchase,
6 options, futures contracts, forward contracts, notional principal contracts such
7 as swaps, equities, and foreign currency transactions. The receipts factor shall
8 include the following amounts:
- 9 1. The amount by which interest from federal funds sold and securities
10 purchased under resale agreements exceeds interest expense on federal
11 funds purchased and securities sold under repurchase agreements; and
12 2. The amount by which interest, dividends, gains, and other income from
13 trading assets and activities, including but not limited to assets and
14 activities in the matched book, in the arbitrage book, and foreign
15 currency transactions, exceed amounts paid in lieu of interest, amounts
16 paid in lieu of dividends, and losses from these assets and activities;
- 17 (m) All receipts derived from sales that would be included in the factor established
18 by KRS 141.120~~(11) to (13)~~~~(8)(e)}~~; and
- 19 (n) Receipts from services not otherwise specifically listed.
- 20 (2) A determination of whether receipts should be included in the numerator of the
21 fraction shall be made as follows:
- 22 (a) Receipts from the lease or rental of real property owned by the financial
23 institution shall be included in the numerator if the property is located within
24 this Commonwealth or receipts from the sublease of real property if the
25 property is located within this Commonwealth.
- 26 (b) 1. Except as described in subparagraph 2. of this paragraph, receipts from
27 the lease or rental of tangible personal property owned by the financial

1 institution shall be included in the numerator if the property is located
2 within this Commonwealth when it is first placed in service by the
3 lessee.

4 2. Receipts from the lease or rental of transportation property owned by the
5 financial institution are included in the numerator of the receipts factor
6 to the extent that the property is used in this Commonwealth. The extent
7 an aircraft will be deemed to be used in this Commonwealth and the
8 amount of receipts that is to be included in the numerator of this
9 Commonwealth's receipts factor is determined by multiplying all the
10 receipts from the lease or rental of the aircraft by a fraction, the
11 numerator of which is the number of landings of the aircraft in this
12 Commonwealth and the denominator of which is the total number of
13 landings of the aircraft. If the extent of the use of any transportation
14 property within this Commonwealth cannot be determined, then the
15 property shall be deemed to be used wholly in the state in which the
16 property has its principal base of operations. A motor vehicle shall be
17 deemed to be used wholly in the state in which it is registered.

18 (c) 1. Interest and fees or penalties in the nature of interest from loans secured
19 by real property shall be included in the numerator if the property is
20 located within this Commonwealth. If the property is located both within
21 this Commonwealth and one (1) or more other states, receipts shall be
22 included if more than fifty percent (50%) of the fair market value of the
23 real property is located within this Commonwealth. If more than fifty
24 percent (50%) of the fair market value of the real property is not located
25 within any one (1) state, then the receipts described in this subparagraph
26 shall be included in the numerator if the borrower is located in this
27 Commonwealth.

1 2. The determination of whether the real property securing a loan is located
2 within this Commonwealth shall be made as of the time the original
3 agreement was made, and any subsequent substitutions of collateral shall
4 be disregarded.

5 (d) Interest and fees or penalties in the nature of interest from loans not secured
6 by real property shall be included in the numerator if the borrower is located
7 in this Commonwealth.

8 (e) Net gains from the sale of loans shall be included in the numerator as provided
9 in subparagraphs 1. and 2. of this paragraph. Net gains from the sale of loans
10 includes income recorded under the coupon stripping rules of Section 1286 of
11 the Internal Revenue Code.

12 1. The amount of net gains, but not less than zero (0), from the sale of
13 loans secured by real property included in the numerator is determined
14 by multiplying net gains by a fraction the numerator of which is the
15 amount included in the numerator of the receipts factor pursuant to
16 paragraph (c) of this subsection and the denominator of which is the
17 total amount of interest and fees or penalties in the nature of interest
18 from loans secured by real property.

19 2. The amount of net gains, but not less than zero (0), from the sale of
20 loans not secured by real property included in the numerator is
21 determined by multiplying net gains by a fraction the numerator of
22 which is the amount included in the numerator of the receipts factor
23 pursuant to paragraph (d) of this subsection and the denominator of
24 which is the total amount of interest and fees or penalties in the nature of
25 interest from loans not secured by real property.

26 (f) Interest and fees or penalties in the nature of interest from credit card
27 receivables and receipts from fees charged to card holders, such as annual

1 fees, shall be included in the numerator if the billing address of the card
2 holder is in this Commonwealth.

3 (g) Net gains, but not less than zero (0), from the sale of credit card receivables to
4 be included in the numerator shall be determined by multiplying the amount
5 established in paragraph (g) of subsection (1) of this section by a fraction the
6 numerator of which is the amount included in the numerator of the receipts
7 factor pursuant to paragraph (f) of this subsection and the denominator of
8 which is the financial institution's total amount of interest and fees or penalties
9 in the nature of interest from credit card receivables and fees charged to card
10 holders.

11 (h) Credit card issuer's reimbursement fees to be included in the numerator shall
12 be determined by multiplying the amount established in paragraph (h) of
13 subsection (1) of this section by a fraction the numerator of which is the
14 amount included in the numerator of the receipts factor pursuant to paragraph
15 (f) of this subsection and the denominator of which is the financial
16 institution's total amount of interest and fees or penalties in the nature of
17 interest from credit card receivables and fees charged to card holders.

18 (i) Receipts from merchant discount shall be included in the numerator if the
19 commercial domicile of the merchant is in this Commonwealth. Receipts from
20 merchant discount shall be computed net of any cardholder charge backs but
21 shall not be reduced by any interchange transaction fees or by any issuer's
22 reimbursement fees paid to another for charges made by its card holders.

23 (j) 1. a. Loan servicing fees derived from loans secured by real property to
24 be included in the numerator shall be determined by multiplying
25 the amount determined under paragraph (j) of subsection (1) of this
26 section by a fraction the numerator of which is the amount
27 included in the numerator of the receipts factor pursuant to

1 paragraph (c) of this subsection and the denominator of which is
2 the total amount of interest and fees or penalties in the nature of
3 interest from loans secured by real property.

4 b. Loan servicing fees derived from loans not secured by real
5 property to be included in the numerator shall be determined by
6 multiplying the amount determined under paragraph (k) of
7 subsection (1) of this section by a fraction the numerator of which
8 is the amount included in the numerator of the receipts factor
9 pursuant to paragraph (d) of this subsection and the denominator
10 of which is the total amount of interest and fees or penalties in the
11 nature of interest from loans not secured by real property.

12 2. In circumstances in which the financial institution receives loan
13 servicing fees for servicing either the secured or the unsecured loans of
14 another, the numerator of the receipts factor shall include the fees if the
15 borrower is located in this Commonwealth.

16 (k) Receipts from services not otherwise apportioned under this section shall be
17 included in the numerator if the service is performed in this Commonwealth.
18 If the service is performed both within and without this Commonwealth, the
19 numerator of the receipts factor includes receipts from services not otherwise
20 apportioned under this section, if a greater proportion of the income-
21 producing activity is performed in this Commonwealth based on cost of
22 performance.

23 (l) 1. The numerator of the receipts factor includes interest, dividends, net
24 gains, but not less than zero (0), and other income from investment
25 assets and activities and from trading assets and activities described in
26 paragraph (l) of subsection (1) of this section that are attributable to this
27 Commonwealth.

- 1 a. The amount of interest, dividends, net gains, but not less than zero
2 (0), and other income from investment assets and activities in the
3 investment account to be attributed to this Commonwealth and
4 included in the numerator is determined by multiplying all income
5 from the assets and activities by a fraction the numerator of which
6 is the average value of the assets that are properly assigned to a
7 regular place of business of the financial institution within this
8 Commonwealth and the denominator of which is the average value
9 of all the assets.
- 10 b. The amount of interest from federal funds sold and purchased and
11 from securities purchased under resale agreements and securities
12 sold under repurchase agreements attributable to this
13 Commonwealth and included in the numerator is determined by
14 multiplying the amount described in subparagraph 1. of paragraph
15 (l) of subsection (1) of this section from funds and securities by a
16 fraction the numerator of which is the average value of federal
17 funds sold and securities purchased under agreements to resell
18 which are properly assigned to a regular place of business of the
19 financial institution within this Commonwealth and the
20 denominator of which is the average value of all funds and
21 securities.
- 22 c. The amount of interest, dividends, gains, and other income from
23 trading assets and activities, including but not limited to assets and
24 activities in the matched book, in the arbitrage book, and foreign
25 currency transactions, but excluding amounts described in
26 subdivisions a. and b. of this subparagraph, attributable to this
27 Commonwealth and included in the numerator is determined by

1 multiplying the amount described in subparagraph 2. of paragraph
2 (l) of subsection (1) of this section by a fraction the numerator of
3 which is the average value of trading assets which are properly
4 assigned to a regular place of business of the financial institution
5 within this Commonwealth and the denominator of which is the
6 average value of all assets.

7 d. For purposes of this subparagraph, average value shall be
8 determined using the rules for determining the average value of
9 tangible personal property set forth in KRS 136.535(3) and (4).

10 2. In lieu of using the method set forth in subparagraph 1. of this
11 paragraph, the financial institution may elect, or the department may
12 require in order to fairly represent the business activity of the financial
13 institution in this Commonwealth, the use of the method set forth in this
14 subparagraph.

15 a. The amount of interest, dividends, net gains, but not less than zero
16 (0), and other income from investment assets and activities in the
17 investment account to be attributed to this Commonwealth and
18 included in the numerator is determined by multiplying all income
19 from assets and activities by a fraction the numerator of which is
20 the gross income from assets and activities which are properly
21 assigned to a regular place of business of the financial institution
22 within this Commonwealth and the denominator of which is the
23 gross income from all assets and activities.

24 b. The amount of interest from federal funds sold and purchased and
25 from securities purchased under resale agreements and securities
26 sold under repurchase agreements attributable to this
27 Commonwealth and included in the numerator is determined by

1 multiplying the amount described in subparagraph 1. of paragraph
2 (l) of subsection (1) of this section from funds and securities by a
3 fraction the numerator of which is the gross income from funds
4 and securities which are properly assigned to a regular place of
5 business of the financial institution within this Commonwealth and
6 the denominator of which is the gross income from all funds and
7 securities.

8 c. The amount of interest, dividends, gains, and other income from
9 trading assets and activities, including but not limited to assets and
10 activities in the matched book, in the arbitrage book and foreign
11 currency transactions, but excluding amounts described in
12 subdivisions a. and b. of this subparagraph, attributable to this
13 Commonwealth and included in the numerator is determined by
14 multiplying the amount described in subparagraph 2. of paragraph
15 (l) of subsection (1) of this section by a fraction the numerator of
16 which is the gross income from trading assets and activities which
17 are properly assigned to a regular place of business of the financial
18 institution within this Commonwealth and the denominator of
19 which is the gross income from all assets and activities.

20 3. If the financial institution elects or is required by the department to use
21 the method set forth in subparagraph 2. of this paragraph, it shall use this
22 method on all subsequent returns unless the financial institution receives
23 prior permission from the department to use, or the department requires,
24 a different method.

25 4. The financial institution shall have the burden of proving that an
26 investment asset or activity or trading asset or activity was properly
27 assigned to a regular place of business outside this Commonwealth by

1 demonstrating that the day-to-day decisions regarding the asset or
2 activity occurred at a regular place of business outside this
3 Commonwealth. Where the day-to-day decisions regarding an
4 investment asset or activity or trading asset or activity occur at more
5 than one (1) regular place of business and one (1) regular place of
6 business is in this Commonwealth and one (1) regular place of business
7 is outside this Commonwealth, the asset or activity shall be considered
8 to be located at the regular place of business of the financial institution
9 where the investment or trading policies or guidelines with respect to the
10 asset or activity are established. Unless the financial institution
11 demonstrates to the contrary, the policies and guidelines shall be
12 presumed to be established at the commercial domicile of the financial
13 institution.

14 (m) The numerator of the receipts factor includes all other receipts derived from
15 sales as determined pursuant to the provisions set forth in KRS 141.120(11) to
16 (13)~~[(8)(c)]~~.

17 (n) 1. All receipts that would be assigned under this section to a state in which
18 the financial institution is not taxable shall be included in the numerator
19 of the receipts factor, if the financial institution's commercial domicile is
20 in this Commonwealth.

21 2. For purposes of subparagraph 1. of this paragraph, "taxable" means
22 either:

23 a. That a financial institution is subject in another state to a net
24 income tax, a franchise tax measured by net income, a franchise
25 tax for the privilege of doing business, a corporate stock tax
26 including a bank shares tax, a single business tax, an earned
27 surplus tax, or any tax which is imposed upon or measured by net

1 income; or

2 b. That another state has statutory authority to subject the financial
3 institution to any of the taxes in subdivision a. of this
4 subparagraph, whether in fact the state does or does not impose the
5 tax.

6 ➔Section 9. KRS 141.040 is amended to read as follows:

7 (1) Every corporation doing business in this state, except those corporations listed in
8 paragraphs (a) to (i) of this subsection, shall pay for each taxable year a tax to be
9 computed by the taxpayer on taxable net income or the alternative minimum
10 calculation computed under this section at the rates specified in this section:

11 (a) Financial institutions, as defined in KRS 136.500, except bankers banks
12 organized under KRS 286.3-135;

13 (b) Savings and loan associations organized under the laws of this state and under
14 the laws of the United States and making loans to members only;

15 (c) Banks for cooperatives;

16 (d) Production credit associations;

17 (e) Insurance companies, including farmers or other mutual hail, cyclone,
18 windstorm, or fire insurance companies, insurers, and reciprocal underwriters;

19 (f) Corporations or other entities exempt under Section 501 of the Internal
20 Revenue Code;

21 (g) Religious, educational, charitable, or like corporations not organized or
22 conducted for pecuniary profit;

23 (h) Corporations whose only owned or leased property located in this state is
24 located at the premises of a printer with which it has contracted for printing,
25 provided that:

26 1. The property consists of the final printed product, or copy from which
27 the printed product is produced; and

1 2. The corporation has no individuals receiving compensation in this state
2 as provided in KRS 141.120~~(10)(8)(b)~~; and

3 (i) For all taxable years except those beginning after December 31, 2004, and
4 before January 1, 2007, S corporations.

5 (2) For tax years ending before January 1, 1990, the following rates shall apply:

6 (a) Three percent (3%) of the first twenty-five thousand dollars (\$25,000) of
7 taxable net income;

8 (b) Four percent (4%) of the amount of taxable net income in excess of twenty-
9 five thousand dollars (\$25,000), but not in excess of fifty thousand dollars
10 (\$50,000);

11 (c) Five percent (5%) of the amount of taxable net income in excess of fifty
12 thousand dollars (\$50,000), but not in excess of one hundred thousand dollars
13 (\$100,000);

14 (d) Six percent (6%) of the amount of taxable net income in excess of one
15 hundred thousand dollars (\$100,000), but not in excess of two hundred fifty
16 thousand dollars (\$250,000); and

17 (e) Seven and twenty-five one hundredths percent (7.25%) of the amount of
18 taxable net income in excess of two hundred fifty thousand dollars
19 (\$250,000).

20 (3) For tax years beginning after December 31, 1989, and before January 1, 2005, the
21 following rates shall apply:

22 (a) Four percent (4%) of the first twenty-five thousand dollars (\$25,000) of
23 taxable net income;

24 (b) Five percent (5%) of the amount of taxable net income in excess of twenty-
25 five thousand dollars (\$25,000) but not in excess of fifty thousand dollars
26 (\$50,000);

27 (c) Six percent (6%) of the amount of taxable net income in excess of fifty

1 thousand dollars (\$50,000), but not in excess of one hundred thousand dollars
2 (\$100,000);

3 (d) Seven percent (7%) of the amount of taxable net income in excess of one
4 hundred thousand dollars (\$100,000), but not in excess of two hundred fifty
5 thousand dollars (\$250,000); and

6 (e) Eight and twenty-five one hundredths percent (8.25%) of the amount of
7 taxable net income in excess of two hundred fifty thousand dollars
8 (\$250,000).

9 (4) For tax years beginning before January 1, 1990, and ending after December 31,
10 1989, the tax shall be the sum of the amounts determined in paragraphs (a) and (b)
11 as follows:

12 (a) Apply the tax rates in subsection (2) of this section to the taxable net income
13 for the year and multiply the result by a fraction, the numerator of which is the
14 number of days from the first day of the taxable year through December 31,
15 1989, and the denominator of which is the total number of days of the taxable
16 year; and

17 (b) Apply the tax rates in subsection (3) of this section to the taxable net income
18 for the year and multiply the result by a fraction, the numerator of which is the
19 number of days from January 1, 1990, through the last day of the taxable year
20 and the denominator of which is the total number of days of the taxable year.

21 (5) For taxable years beginning after December 31, 2004, and before January 1, 2007,
22 corporations subject to the tax imposed by this section shall pay the greater of the
23 tax computed under paragraph (a) of this subsection, the tax computed under
24 paragraph (b)1. or 2. of this subsection, or the minimum tax imposed by subsection
25 (7) of this section. The tax computed under this subsection is as follows:

26 (a) 1. Four percent (4%) of the first fifty thousand dollars (\$50,000) of taxable
27 net income;

- 1 2. Five percent (5%) of taxable net income over fifty thousand dollars
- 2 (\$50,000) up to one hundred thousand dollars (\$100,000); and
- 3 3. Seven percent (7%) of taxable net income over one hundred thousand
- 4 dollars (\$100,000); or
- 5 (b) An alternative minimum calculation of an amount equal to the lesser of the
- 6 amount computed under subparagraph 1. or 2. of this paragraph:
- 7 1. The gross receipts calculation contained in subsection (11) of this
- 8 section; or
- 9 2. The gross profits calculation contained in subsection (12) of this section.
- 10 (6) For taxable years beginning on or after January 1, 2007, the following rates shall
- 11 apply:
- 12 (a) Four percent (4%) of the first fifty thousand dollars (\$50,000) of taxable net
- 13 income;
- 14 (b) Five percent (5%) of taxable net income over fifty thousand dollars (\$50,000)
- 15 up to one hundred thousand dollars (\$100,000); and
- 16 (c) Six percent (6%) of taxable net income over one hundred thousand dollars
- 17 (\$100,000).
- 18 (7) For taxable years beginning on or after January 1, 2005, and before January 1, 2007,
- 19 a minimum of one hundred seventy-five dollars (\$175) shall be due for the taxable
- 20 year from each corporation subject to the tax imposed by this section, regardless of
- 21 the application of any tax credits provided under this chapter or any other provision
- 22 of the Kentucky Revised Statutes for which the business entity may qualify.
- 23 (8) The alternative minimum calculation portion of the tax computation provided in
- 24 subsection (5) of this section shall not apply to:
- 25 (a) Public service corporations subject to tax under KRS 136.120;
- 26 (b) Open-end registered investment companies organized under the laws of this
- 27 state and registered under the Investment Company Act of 1940;

- 1 (c) Any property or facility which has been certified as a fluidized bed energy
2 production facility as defined in KRS 211.390;
- 3 (d) An alcohol production facility as defined in KRS 247.910; and
- 4 (e) For taxable years beginning after December 31, 2005, and before January 1,
5 2007, political organizations as defined in Internal Revenue Code Section 527
6 and related regulations.
- 7 (9) For taxable years beginning after December 31, 2004, and before January 1, 2007:
- 8 (a) As used in this subsection, "qualified exempt organization" means an entity
9 listed in subsection (1)(a) to (h) of this section and shall not include any entity
10 whose exempt status has been disallowed by the Internal Revenue Service.
- 11 (b) Notwithstanding any other provisions of this section or KRS 141.010, any
12 corporation of the type listed in KRS 141.010(24)(b)2. to 8. that is owned in
13 whole or in part by a qualified exempt organization shall, in calculating its
14 taxable net income, gross receipts, or Kentucky gross profits, exclude the
15 proportionate share of its taxable net income, gross receipts, or Kentucky
16 gross profits attributable to the ownership interest of the qualified exempt
17 organization.
- 18 (c) Any corporation that reduces taxable net income, gross receipts, or Kentucky
19 gross profits in accordance with paragraph (b) of this subsection shall
20 disregard the ownership interest of the qualified exempt organization in
21 determining the amount of credit available under KRS 141.420.
- 22 (d) The department ~~of Revenue~~ may promulgate an administrative regulation to
23 further define "qualified exempt organization" to include an entity for which
24 exemption is constitutionally or legally required, or to exclude any entity
25 created primarily for tax avoidance purposes with no legitimate business
26 purpose.
- 27 (10) For taxable years beginning after December 31, 2004, and before January 1, 2007:

1 (a) To the extent that a corporation identified in KRS 141.010(24)(b)2. to 8. is
2 doing business in this state, any member, shareholder or partner of the
3 corporation may elect to pay, on behalf of the corporation, his, her or its
4 proportionate share of the tax imposed by this section against the corporation.
5 If an election is made, the electing member, shareholder or partner shall be
6 treated in the same manner as the corporation regarding the proportionate part
7 of the tax paid by the member, shareholder or partner. An election made
8 pursuant to this subsection shall not:

- 9 1. Be used by the department~~[of Revenue]~~ or the taxpayer to assert that the
10 party making the election is doing business in Kentucky;
- 11 2. Result in an increase of the amount of credit allowable under KRS
12 141.420; or
- 13 3. Apply to any corporation that is required to be included in a
14 consolidated return under KRS 141.200(2) to (5) and (9) to (12).

15 (b) The department~~[of Revenue]~~ shall prescribe forms and promulgate
16 regulations to execute and administer the provisions of this subsection.

17 (11) The alternative minimum calculation for gross receipts shall be:

18 (a) For taxable years beginning on or after January 1, 2005, and before January 1,
19 2006, nine and one-half cents (\$0.095) per one hundred dollars (\$100) of the
20 corporation's Kentucky gross receipts; and

21 (b) For taxable years beginning on or after January 1, 2006, and before January 1,
22 2007:

- 23 1. If the corporation's gross receipts from all sources are three million
24 dollars (\$3,000,000) or less, the alternative minimum calculation shall
25 be zero;
- 26 2. If the corporation's gross receipts from all sources are greater than three
27 million dollars (\$3,000,000) but less than six million dollars

1 (\$6,000,000), the alternative minimum calculation shall be nine and one-
2 half cents (\$0.095) per one hundred dollars (\$100) of the corporation's
3 Kentucky gross receipts, reduced by an amount equal to two thousand
4 eight hundred fifty dollars (\$2,850) multiplied by a fraction, the
5 numerator of which is six million dollars (\$6,000,000) less the amount
6 of the corporation's Kentucky gross receipts for the taxable year, and the
7 denominator of which is three million dollars (\$3,000,000), but in no
8 case shall the result be less than zero;

- 9 3. If the corporation's gross receipts from all sources are equal to or greater
10 than six million dollars (\$6,000,000), the alternative minimum
11 calculation shall be nine and one-half cents (\$0.095) per one hundred
12 dollars (\$100) of the corporation's Kentucky gross receipts.

13 In determining eligibility for the reductions contained in this paragraph when
14 the alternative minimum calculation is computed on a consolidated return, the
15 gross receipts of the affiliated group shall include the total gross receipts from
16 all sources of the affiliated group, including eliminating entries for
17 transactions among the group.

18 (12) The alternative minimum calculation for gross profits shall be:

- 19 (a) For taxable years beginning on or after January 1, 2005, and before January 1,
20 2006, seventy-five cents (\$0.75) per one hundred dollars (\$100) of the
21 corporation's Kentucky gross profits; and

- 22 (b) For taxable years beginning on or after January 1, 2006, and before January 1,
23 2007:

- 24 1. If the corporation's gross profits from all sources are three million
25 dollars (\$3,000,000) or less, the tax shall be zero;
26 2. If the corporation's gross profits from all sources are at least three
27 million dollars (\$3,000,000) but less than six million dollars

1 (\$6,000,000), the tax shall be seventy-five cents (\$0.75) per one hundred
2 dollars (\$100) of the corporation's Kentucky gross profits, reduced by an
3 amount equal to twenty-two thousand five hundred dollars (\$22,500)
4 multiplied by a fraction, the numerator of which is six million dollars
5 (\$6,000,000) less the amount of the corporation's Kentucky gross profits,
6 and the denominator of which is three million dollars (\$3,000,000), but
7 in no case shall the result be less than zero;

- 8 3. If the corporation's gross profits from all sources are equal to or greater
9 than six million dollars (\$6,000,000), the tax shall be seventy-five cents
10 (\$0.75) per one hundred dollars (\$100) on all of the corporation's
11 Kentucky gross profits.

12 In determining eligibility for the reductions contained in this paragraph when
13 the alternative minimum calculation is computed on a consolidated return, the
14 gross profits of the affiliated group shall include the total gross profits from all
15 sources of the affiliated group, including eliminating entries for transactions
16 among the group.

17 (13) As used in subsections (11) and (12) of this section:

- 18 (a) "Kentucky gross receipts" means an amount equal to the computation of the
19 numerator of the sales factor under the provisions of KRS 141.120~~(11) to~~
20 ~~(13)~~~~[(8)(c)]~~;
- 21 (b) "Gross receipts from all sources" means an amount equal to the computation
22 of the denominator of the sales factor under the provisions of KRS
23 141.120~~(11) to (13)~~~~[(8)(c)]~~; and
- 24 (c) The terms defined in KRS 141.0401(1)(d) to (l) shall have the same meaning
25 as provided in KRS 141.0401.

26 (14) (a) For taxable years beginning on or after January 1, 2007, an S corporation shall
27 pay income tax on the same items of income and in the same manner as

required for federal purposes, except to the extent required by differences between this chapter and the federal income tax law and regulations.

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

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

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

➔Section 10. KRS 141.120 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Apportionable~~[Business]~~ income" means:

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

a. Income arising from transactions and activity in the regular course of a trade or business of the corporation; ~~and [includes]~~

b. Income arising from tangible and intangible property if the acquisition, management, employment, development, or disposition of the property is or was related to the operation~~[constitutes integral parts]~~ of the corporation's~~[regular]~~ trade or business~~[operations]~~; and

2. Any income that would be allocable to this state under the Constitution of the United States, but that is apportioned rather than

- 1 *allocated pursuant to the laws of this state;*
- 2 (b) "Commercial domicile" means the principal place from which the trade or
- 3 business of the corporation is managed;
- 4 (c) "Compensation" means wages, salaries, commissions, and any other form of
- 5 remuneration paid or payable to employees for personal services;
- 6 (d) "Financial organization" means any bank, trust company, savings bank,
- 7 industrial bank, land bank, safe deposit company, private banker, savings and
- 8 loan association, credit union, cooperative bank, investment company, or any
- 9 type of insurance company;
- 10 (e) "*Nonapportionable*~~[Nonbusiness]~~ income" means all income other than
- 11 *apportionable*~~[business]~~ income;
- 12 (f) "Public service company" means any business entity subject to taxation under
- 13 KRS 136.120;
- 14 (g) "Sales" means all gross receipts of the corporation not allocated under
- 15 subsections (3) through (7) of this section, except as provided by KRS
- 16 141.121; and
- 17 (h) "State" means any state of the United States, the District of Columbia, the
- 18 Commonwealth of Puerto Rico, any territory or possession of the United
- 19 States, and any foreign country or political subdivision thereof.
- 20 (2) Any corporation which is required by KRS 141.010(14)(b) to allocate and apportion
- 21 its net income shall allocate and apportion its net income as provided in this section.
- 22 (3) Rents and royalties from real, intangible or tangible personal property, capital gains
- 23 and losses, interest, or patent or copyright royalties, to the extent that they constitute
- 24 *nonapportionable*~~[nonbusiness]~~ income, shall be allocated as provided in
- 25 subsections (4) through (7) of this section.
- 26 (4) (a) Net rents and royalties from real property located in this state are allocable to
- 27 this state.

- 1 (b) Net rents and royalties from tangible personal property are allocable to this
2 state if and to the extent that the property is utilized in this state; or in their
3 entirety if the corporation's commercial domicile is in this state and the
4 corporation is not organized under the laws of or taxable in the state in which
5 the property is utilized.
- 6 (c) The extent of utilization of tangible personal property in a state is determined
7 by multiplying the rents and royalties by a fraction, the numerator of which is
8 the number of days of physical location of the property in the state during the
9 rental or royalty period in the taxable year and the denominator of which is the
10 number of days of physical location of the property everywhere during all
11 rental or royalty periods in the taxable year. If the physical location of the
12 property during the rental or royalty period is unknown or unascertainable by
13 the corporation, the tangible personalty is utilized in the state in which the
14 property was located at the time the rental or royalty payer obtained
15 possession.
- 16 (d) Net rents and royalties from intangible personal property located in this state
17 are allocable to this state. For purposes of this section, royalties from property
18 leased in Kentucky shall be considered as royalties from intangible personal
19 property.
- 20 (5) (a) Capital gains and losses from sales or other dispositions of real property
21 located in this state are allocable to this state.
- 22 (b) Capital gains and losses from sales or other dispositions of tangible personal
23 property are allocable to this state if the property had a situs in this state at the
24 time of the sale, or the corporation's commercial domicile is in this state and
25 the corporation is not taxable in the state in which the property had a situs.
- 26 (c) Capital gains and losses from sales or other dispositions of intangible personal
27 property are allocable to this state if the corporation's commercial domicile is

1 in this state.

2 (6) Interest is allocable to this state if the corporation's commercial domicile is in this
3 state.

4 (7) (a) Patent and copyright royalties are allocable to this state if and to the extent
5 that the patent or copyright is utilized by the payer in this state; or if and to the
6 extent that the patent or copyright is utilized by the payer in a state in which
7 the corporation is not taxable and the corporation's commercial domicile is in
8 this state.

9 (b) A patent is utilized in a state to the extent that it is employed in production,
10 fabrication, manufacturing, or other processing in the state or to the extent that
11 a patented product is produced in the state. If the basis of receipts from patent
12 royalties does not permit allocation to states or if the accounting procedures
13 do not reflect states of utilization, the patent is utilized in the state in which
14 the corporation's commercial domicile is located.

15 (c) A copyright is utilized in a state to the extent that printing or other publication
16 originates in the state. If the basis of receipts from copyright royalties does not
17 permit allocation to states or if the accounting procedures do not reflect states
18 of utilization, the copyright is utilized in the state in which the corporation's
19 commercial domicile is located.

20 (8) Except as provided in subsection ~~(14)~~~~(9)~~ of this section, all
21 apportionable~~business~~ income shall be apportioned to this state by multiplying
22 the income by a fraction, the numerator of which is the property factor as
23 determined under subsection (9) of this section, representing twenty-five percent
24 (25%) of the fraction, plus the payroll factor as determined under subsection (10)
25 of this section, representing twenty-five percent (25%) of the fraction, plus the sales
26 factor as determined under subsections (11) to (13) of this section, representing
27 fifty percent (50%) of the fraction, and the denominator of which is four (4),

1 reduced by the number of factors, if any, having no denominator, provided that if
2 the sales factor has no denominator, then the denominator shall be reduced by two
3 (2).

4 (9) (a) The property factor is a fraction, the numerator of which is the average value
5 of the corporation's real and tangible personal property owned or rented and
6 used in this state during the tax period and the denominator of which is the
7 average value of all the corporation's real and tangible personal property
8 owned or rented and used during the tax period; provided, however, that
9 property which has been certified as a pollution control facility as defined in
10 KRS 224.1-300 shall be excluded from the property factor.

11 (b)~~1.1~~ Property owned is valued at its original cost. If the original cost of any
12 property is not determinable or is nominal or zero (0) the property shall be
13 valued by the department pursuant to administrative regulations promulgated
14 by the department. Property rented is valued at eight (8) times the net annual
15 rental rate. Net annual rental rate is the annual rental rate paid by the
16 corporation less any annual rental rate received by the corporation from
17 subrentals, provided that the rental and subrentals are reasonable. If the
18 department determines that the annual rental or subrental rate is unreasonable,
19 or if a nominal or zero (0) rate is charged, the department may determine and
20 apply the rental rate as will reasonably reflect the value of the property rented
21 by the corporation.

22 (c)~~2.2~~ The average value of property shall be determined by averaging the
23 values at the beginning and ending of the tax period but the department may
24 require the averaging of monthly values during the tax period if reasonably
25 required to reflect properly the average value of the property.

26 (10)~~(b)~~ The payroll factor is a fraction, the numerator of which is the total amount
27 paid or payable in this state during the tax period by the corporation for

1 compensation, and the denominator of which is the total compensation paid or
2 payable by the corporation everywhere during the tax period. Compensation is paid
3 or payable in this state if:

4 ~~(a)[1.]~~ The individual's service is performed entirely within the state;

5 ~~(b)[2.]~~ The individual's service is performed both within and without the state,
6 but the service performed without the state is incidental to the individual's
7 service within the state; or

8 ~~(c)[3.]~~ Some of the service is performed in the state and the base of operations
9 or, if there is no base of operations, the place from which the service is
10 directed or controlled is in the state, or the base of operations or the place
11 from which the service is directed or controlled is not in any state in which
12 some part of the service is performed, but the individual's residence is in this
13 state.

14 ~~(11)[(e)—1.]~~ The sales factor is a fraction, the numerator of which is the total sales of
15 the corporation in this state during the tax period, and the denominator of which is
16 the total sales of the corporation everywhere during the tax period.

17 ~~(12)[2.]~~ Sales of tangible personal property are in this state if:

18 ~~(a)[a.]~~ The property is delivered or shipped to a purchaser, other than the
19 United States government, or to the designee of the purchaser within this state
20 regardless of the f.o.b. point or other conditions of the sale; or

21 ~~(b)[b.]~~ The property is shipped from an office, store, warehouse, factory, or
22 other place of storage in this state; and

23 1. The purchaser is the United States government; or

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

25 ~~(13)[3.]~~ Sales, other than sales of tangible personal property, are in this state if:

26 (a) For taxable years beginning before January 1, 2017, the income-producing
27 activity is performed in this state; or the income-producing activity is

1 performed both in and outside this state and a greater proportion of the
2 income-producing activity is performed in this state than in any other state,
3 based on costs of performance; or

4 (b) For taxable years beginning on or after January 1, 2017, the corporation's
5 market for the sales is in this state. The corporation's market for the sales is
6 in this state in the case of:

7 1. Sale, rental, lease, or license of real property, if and to the extent the
8 property is located in this state;

9 2. Rental, lease, or license of tangible personal property, if and to the
10 extent the property is located in this state;

11 3. Sale of a service, if and to the extent the service is delivered to a
12 location or performed in this state; and

13 4. Intangible property:

14 a. That is rented, leased, or licensed, if and to the extent the
15 property is used in this state, provided that intangible property
16 utilized in marketing a good or service to a consumer is used in
17 this state if that good or service is purchased by a consumer who
18 is in this state; or

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

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

25 ii. Receipts from intangible property sales that are contingent
26 on the productivity, use, or disposition of the intangible
27 property shall be treated as receipts from the rental, lease,

or licensing of the intangible property under subdivision a.
of this subparagraph.

All other receipts from a sale of intangible property shall be
excluded from the numerator and denominator of the sales
factor.

~~(14)~~~~(9)~~ (a) If the allocation and apportionment provisions of this section do not fairly represent the extent of the corporation's business activity in this state, the corporation may petition for or the department may require, in respect to all or any part of the corporation's business activity, if reasonable:

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

(b) A corporation may elect the allocation and apportionment methods for the corporation's apportionable~~business~~ income provided for in subparagraphs 1. and 2. of this paragraph. The election, if made, shall be irrevocable for a period of five years.

1. All apportionable~~business~~ income derived directly or indirectly from the sale of management, distribution, or administration services to or on behalf of regulated investment companies, as defined under the Internal Revenue Code of 1986, as amended, including trustees, and sponsors or participants of employee benefit plans which have accounts in a regulated investment company, shall be apportioned to this state only to the extent that shareholders of the investment company are domiciled in this state as follows:

- 1 a. Total apportionable~~[business]~~ income shall be multiplied by a
2 fraction, the numerator of which shall be Kentucky receipts from
3 the services for the tax period and the denominator of which shall
4 be the total receipts everywhere from the services for the tax
5 period.
- 6 b. For purposes of subdivision a. of this subparagraph, Kentucky
7 receipts shall be determined by multiplying total receipts for the
8 tax period from each separate investment company for which the
9 services are performed by a fraction. The numerator of the fraction
10 shall be the average of the number of shares owned by the
11 investment company's shareholders domiciled in this state at the
12 beginning of and at the end of the investment company's taxable
13 year, and the denominator of the fraction shall be the average of
14 the number of the shares owned by the investment company
15 shareholders everywhere at the beginning of and at the end of the
16 investment company's taxable year.
- 17 c. Nonapportionable~~[Nonbusiness]~~ income shall be allocated to this
18 state as provided in subsections (4) through (7) of this section.
- 19 2. All apportionable~~[business]~~ income derived directly or indirectly from
20 the sale of securities brokerage services by a business which operates
21 within the boundaries of any area of the Commonwealth, which on June
22 30, 1992, was designated as a Kentucky Enterprise Zone, as defined in
23 KRS 154.655(2), shall be apportioned to this state only to the extent that
24 customers of the securities brokerage firm are domiciled in this state.
25 The portion of apportionable~~[business]~~ income apportioned to Kentucky
26 shall be determined by multiplying the total apportionable~~[business]~~
27 income from the sale of these services by a fraction determined in the

1 following manner:

- 2 a. The numerator of the fraction shall be the brokerage commissions
3 and total margin interest paid in respect of brokerage accounts
4 owned by customers domiciled in Kentucky for the brokerage
5 firm's taxable year; and
- 6 b. The denominator of the fraction shall be the brokerage
7 commissions and total margin interest paid in respect of brokerage
8 accounts owned by all of the brokerage firm's customers for that
9 year.
- 10 c. Nonapportionable~~Nonbusiness~~ income shall be allocated to this
11 state as provided in subsections (4) through (7) of this section.

12 ~~(15)~~~~(10)~~ Public service companies and financial organizations required by KRS
13 141.010(14)(b) to allocate and apportion net income shall allocate and apportion
14 such income as follows:

- 15 (a) Nonapportionable~~Nonbusiness~~ income shall be allocated to this state as
16 provided in subsections (4) through (7) of this section.
- 17 (b) Apportionable~~Business~~ income shall be apportioned to this state by
18 multiplying the apportionable~~business~~ income by a fraction, the numerator
19 of which is the property factor, representing twenty-five percent (25%) of the
20 fraction, plus the payroll factor, representing twenty-five percent (25%) of the
21 fraction, plus the sales factor, representing fifty percent (50%) of the fraction,
22 and the denominator of which is four (4), reduced by the number of factors, if
23 any, having no denominator, provided that if the sales factor has no
24 denominator, then the denominator shall be reduced by two (2). The payroll
25 factor shall be determined as provided in subsection ~~(10)~~~~(8)(b)~~ of this
26 section. The property factor and sales factor shall be determined as provided
27 by administrative regulations promulgated by the department.

1 (c) An affiliated group electing to file a consolidated return~~[under KRS~~
2 ~~141.200(4)]~~ or required to file a consolidated return under KRS 141.200~~[(11)]~~
3 that includes a public service company, a provider of communications services
4 or multichannel video programming services as defined in KRS 136.602, or
5 financial organization shall determine the amount of payroll to be included in
6 the apportionment factor as provided in subsection (10)~~[(8)(b)]~~ of this section.
7 The amount of property and sales of the public service company, provider of
8 communications services or multichannel video programming services as
9 defined in KRS 136.602, or financial organization to be included in the
10 apportionment factors of the affiliated group shall be determined in
11 accordance with administrative regulations promulgated by the department
12 under paragraph (b) of this subsection.

13 (16)~~[(11)]~~ For taxable years beginning on or after January 1, 2007, a corporation that:

- 14 (a) Owns an interest in a limited liability pass-through entity; or
15 (b) Owns an interest in a general partnership organized or formed as a general
16 partnership after January 1, 2006;
17 shall include the proportionate share of sales, property, and payroll of the limited
18 liability pass-through entity or general partnership when apportioning income, and
19 shall include the proportionate share of sales in calculating the tax due pursuant to
20 KRS 141.0401. The phrases "an interest in a limited liability pass-through entity"
21 and "an interest in a general partnership organized or formed as a general
22 partnership after January 1, 2006," shall extend to each level of multiple-tiered pass-
23 through entities.

24 ➔Section 11. KRS 141.121 is amended to read as follows:

25 (1) As used in this section:

- 26 (a) "Affiliated airline" means an airline:
27 1. For which a qualified air freight forwarder facilitates air transportation;

1 and

2 2. That is in the same affiliated group as a qualified air freight forwarder;

3 (b) "Affiliated group" has the same meaning as in KRS 141.200;

4 (c) "Kentucky revenue passenger miles" means the total revenue passenger miles
5 within the borders of Kentucky for all flight stages that either originate or
6 terminate in this state;

7 (d) "Liquid asset" means an asset, other than functional currency or funds held in
8 bank accounts, held to provide a relatively immediate source of funds to
9 satisfy the liquidity needs of the trade or business. "Liquid assets" include:

10 1. Foreign currency and trading positions therein, other than functional
11 currency used in the regular course of the corporation's trade or business;

12 2. Marketable instruments, including stocks, bonds, debentures, options,
13 warrants, and futures contracts; and

14 3. Mutual funds which hold liquid assets;

15 (e) "Marketable instrument" means an instrument that is traded in an established
16 stock or securities market and is regularly quoted by brokers or dealers in
17 making a market;

18 (f) "Overall net gain" means the total net gain from all transactions incurred at
19 each treasury function for the entire taxable period. "Overall net gain" does
20 not mean the net gain from a specific transaction if multiple transactions occur
21 during the taxable period;

22 (g) "Passenger airline" means a person or corporation engaged primarily in the
23 carriage by aircraft of passengers in interstate commerce;

24 (h) "Qualified air freight forwarder" means a person that:

25 1. Is engaged primarily in the facilitation of the transportation of property
26 by air;

27 2. Does not itself operate aircraft; and

- 1 3. Is in the same affiliated group as an affiliated airline;
- 2 (i) "Revenue passenger miles" means miles calculated in accordance with 14
- 3 C.F.R. Part 241; and
- 4 (j) "Treasury function" means the pooling and management of liquid assets for
- 5 the purpose of satisfying the cash flow needs of the trade or business and
- 6 includes the following situations:
- 7 1. Providing liquidity for a corporation's business cycle; and
- 8 2. Providing a reserve for business contingencies or business acquisitions.
- 9 (2) If a corporation holds liquid assets in connection with one (1) or more treasury
- 10 functions of the corporation, and the liquid assets produce apportionable~~[business]~~
- 11 income when sold, exchanged, or otherwise disposed of, the overall net gain from
- 12 those transactions for each treasury function for the tax period shall be included in
- 13 the sales factor. For purposes of this subsection:
- 14 (a) Each treasury function shall be considered separately; and
- 15 (b) A corporation principally engaged in the trade or business of purchasing and
- 16 selling instruments or other items included in the definition of liquid assets is
- 17 not performing a treasury function with respect to that income produced.
- 18 (3) For purposes of apportioning apportionable~~[business]~~ income to this state:
- 19 (a) Passenger airlines shall determine the property, payroll, and sales factors as
- 20 follows:
- 21 1. Except as modified by this subparagraph, the property factor shall be
- 22 determined as provided in KRS 141.120~~(2)~~~~(8)(a)~~. Aircraft operated by
- 23 a passenger airline shall be included in both the numerator and
- 24 denominator of the property factor. Aircraft shall be included in the
- 25 numerator of the property factor by determining the product of:
- 26 a. The total average value of the aircraft operated by the passenger
- 27 airline; and

- 1 b. A fraction, the numerator of which is the Kentucky revenue
2 passenger miles of the passenger airline for the taxable year and
3 the denominator of which is the total revenue passenger miles of
4 the passenger airline for the taxable year;
- 5 2. Except as modified by this subparagraph, the payroll factor shall be
6 determined as provided in KRS 141.120~~(10)~~~~(8)(b)~~. Compensation paid
7 during the tax period by a passenger airline to flight personnel shall be
8 included in the numerator of the payroll factor by determining the
9 product of:
- 10 a. The total amount paid during the taxable year to flight personnel;
11 and
- 12 b. A fraction, the numerator of which is the Kentucky revenue
13 passenger miles of the passenger airline for the taxable year and
14 the denominator of which is the total revenue passenger miles of
15 the passenger airline for the taxable year; and
- 16 3. Except as modified by this subparagraph, the sales factor shall be
17 determined as provided in KRS 141.120~~(11)~~ to (13)~~(8)(e)~~.
18 Transportation revenues shall be included in the numerator of the sales
19 factor by determining the product of:
- 20 a. The total transportation revenues of the passenger airline for the
21 taxable year; and
- 22 b. A fraction, the numerator of which is the Kentucky revenue
23 passenger miles for the taxable year and the denominator of which
24 is the total revenue passenger miles for the taxable year; and
- 25 (b) Qualified air freight forwarders shall determine the property, payroll, and sales
26 factors as follows:
- 27 1. The property factor shall be determined as provided in KRS

1 141.120~~(9)~~~~((8)(a))~~;

2 2. The payroll factor shall be determined as provided in KRS
3 141.120~~(10)~~~~((8)(b))~~; and

4 3. Except as modified by this subparagraph, the sales factor shall be
5 determined as provided in KRS 141.120~~(11) to (13)~~~~((8)(c))~~. Freight
6 forwarding revenues shall be included in the numerator of the sales
7 factor by determining the product of:

8 a. The total freight forwarding revenues of the qualified air freight
9 forwarder for the taxable year; and

10 b. A fraction, the numerator of which is miles operated in Kentucky
11 by the affiliated airline and the denominator of which is the total
12 miles operated by the affiliated airline.

13 ➔Section 12. KRS 141.200 is amended to read as follows:

14 (1) Subsections (2) to (7) of this section shall apply for taxable periods ending before
15 January 1, 2005, and election periods beginning prior to January 1, 2005.

16 (2) As used in subsections (2) to (7) of this section, unless the context requires
17 otherwise:

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

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

27 (c) "Separate return" means a Kentucky corporation income tax return in which

1 only the transactions and activities of a single corporation are considered in
2 making all determinations and computations necessary to calculate taxable net
3 income, tax due, and credits allowed in accordance with the provisions of this
4 chapter;

5 (d) "Corporation" means "corporation" as defined in Section 7701(a)(3) of the
6 Internal Revenue Code; and

7 (e) "Election period" means the ninety-six (96) month period provided for in
8 subsection (4)(d) of this section.

9 (3) Every corporation doing business in this state, except those exempt from taxation
10 under KRS 141.040, shall, for each taxable year, file a separate return unless the
11 corporation was, for any part of the taxable year, a member of an affiliated group
12 electing to file a consolidated return in accordance with subsection (4) of this
13 section.

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

17 (b) An affiliated group electing to file a consolidated return under paragraph (a) of
18 this subsection shall be treated for all purposes as a single corporation under
19 the provisions of this chapter. All transactions between corporations included
20 in the consolidated return shall be eliminated in computing net income in
21 accordance with KRS 141.010(13), and in determining the property, payroll,
22 and sales factors in accordance with KRS 141.120. The gross receipts received
23 by a public service company that is a member of an affiliated group shall be
24 excluded from the calculation of the alternative minimum calculation under
25 the provisions of KRS 141.040. For purposes of this paragraph, "public
26 service company" has the same meaning as provided in KRS 136.120.

27 (c) Any election made in accordance with paragraph (a) of this subsection shall be

1 made on a form prescribed by the department and shall be submitted to the
2 department on or before the due date of the return including extensions for the
3 first taxable year for which the election is made.

4 (d) Notwithstanding subsections (9) to (14) and (20)~~[(15)]~~ of this section, any
5 election to file a consolidated return pursuant to paragraph (a) of this
6 subsection shall be binding on both the department and the affiliated group for
7 a period beginning with the first month of the first taxable year for which the
8 election is made and ending with the conclusion of the taxable year in which
9 the ninety-sixth consecutive calendar month expires.

10 (e) For each taxable year for which an affiliated group has made an election in
11 accordance with paragraph (a) of this subsection, the consolidated return shall
12 include all corporations which are members of the affiliated group.

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

19 (6) Every corporation return or report required by this chapter shall be executed by one
20 (1) of the following officers of the corporation: the president, vice president,
21 secretary, treasurer, assistant secretary, assistant treasurer, or chief accounting
22 officer. The department~~[of Revenue]~~ may require a further or supplemental report
23 of further information and data necessary for computation of the tax.

24 (7) In the case of a corporation doing business in this state that carries on transactions
25 with stockholders or with other corporations related by stock ownership, by
26 interlocking directorates, or by some other method, the department shall require
27 information necessary to make possible accurate assessment of the income derived

1 by the corporation from sources within this state. To make possible such
2 assessment, the department may require the corporation to file supplementary
3 returns showing information respecting the business of any or all individuals and
4 corporations related by one (1) or more of these methods to the corporation. The
5 department may require the return to show in detail the record of transactions
6 between the corporation and any or all other related corporations or individuals.

7 (8) Subsections (9) to (14) of this section shall apply for taxable years beginning on or
8 after January 1, 2005, and before January 1, 2017~~[unless otherwise provided]~~.

9 (9) As used in subsections (9) to (14) of this section:

10 (a) 1. For taxable years beginning after December 31, 2004, and before
11 January 1, 2007, "affiliated group" means one (1) or more chains of
12 includible corporations connected through stock ownership, membership
13 interest, or partnership interest with a common parent corporation which
14 is an includible corporation if:

15 a. The common parent owns directly an ownership interest meeting
16 the requirements of subparagraph 2. of this paragraph in at least
17 one (1) other includible corporation; and

18 b. An ownership interest meeting the requirements of subparagraph
19 2. of this paragraph in each of the includible corporations,
20 excluding the common parent, is owned directly by one (1) or
21 more of the other corporations.

22 2. The ownership interest of any corporation meets the requirements of this
23 paragraph if the ownership interest encompasses at least eighty percent
24 (80%) of the voting power of all classes of ownership interests and has a
25 value equal to at least eighty percent (80%) of the total value of all
26 ownership interests;

27 (b) 1. For taxable years beginning after December 31, 2006, and before

- 1 January 1, 2017, "affiliated group" means one (1) or more chains of
2 includible corporations connected through stock ownership with a
3 common parent corporation which is an includible corporation if:
- 4 a. The common parent owns directly stock meeting the requirements
5 of subparagraph 2. of this paragraph in at least one (1) other
6 includible corporation; and
- 7 b. Stock meeting the requirements of subparagraph 2. of this
8 paragraph in each of the includible corporations, excluding the
9 common parent, is owned directly by one (1) or more of the other
10 corporations.
- 11 2. The stock of any corporation meets the requirements of this paragraph if
12 the stock encompasses at least eighty percent (80%) of the voting power
13 of all classes of stock and has a value equal to at least eighty percent
14 (80%) of the total value of all stock;
- 15 (c) "Common parent corporation" means the member of an affiliated group that
16 meets the ownership requirement of paragraph (a)1. or (b)1. of this
17 subsection;
- 18 (d) "Foreign corporation" means a corporation that is organized under the laws of
19 a country other than the United States and is related to a member of an
20 affiliated group through stock ownership;
- 21 (e) "Includible corporation" means any corporation that is doing business in this
22 state except:
- 23 1. Corporations exempt from corporation income tax under KRS
24 141.040(1)(a) to (i);
- 25 2. Foreign corporations;
- 26 3. Corporations with respect to which an election under Section 936 of the
27 Internal Revenue Code is in effect for the taxable year;

- 1 4. Real estate investment trusts as defined in Section 856 of the Internal
2 Revenue Code;
- 3 5. Regulated investment companies as defined in Section 851 of the
4 Internal Revenue Code;
- 5 6. A domestic international sales company as defined in Section 992(a)(1)
6 of the Internal Revenue Code;
- 7 7. Any corporation that realizes a net operating loss whose Kentucky
8 property, payroll, and sales factors pursuant to KRS 141.120~~[(8)]~~ are de
9 minimis;
- 10 8. Any corporation for which the sum of the property, payroll and sales
11 factors described in KRS 141.120~~[(8)]~~ is zero; and
- 12 9. For taxable years beginning prior to January 1, 2006, and taxable years
13 beginning on or after January 1, 2007, an S corporation as defined in
14 Section 1361(a) of the Internal Revenue Code;
- 15 (f) "Ownership interest" means stock, a membership interest in a limited liability
16 company, or a partnership interest in a limited partnership or limited liability
17 partnership;
- 18 (g) "Consolidated return" means a Kentucky corporation income tax return filed
19 by members of an affiliated group in accordance with this section. The
20 determinations and computations required by this chapter shall be made in
21 accordance with the provisions of the Internal Revenue Code and related
22 regulations, except as required by differences between this chapter and the
23 Internal Revenue Code;
- 24 (h) "Separate return" means a Kentucky corporation income tax return in which
25 only the transactions and activities of a single corporation are considered in
26 making all determinations and computations necessary to calculate taxable net
27 income, tax due, and credits allowed in accordance with the provisions of this

1 chapter; and

2 (i) "Stock" means stock in a corporation, or a membership interest in a limited
3 liability company that has elected to be treated as a corporation for federal tax
4 purposes.

5 (10) Every corporation doing business in this state except those exempt from taxation
6 under KRS 141.040(1)(a) to (i) shall, for each taxable year, file a separate return
7 unless the corporation was, for any part of the taxable year:

8 (a) An includible corporation in an affiliated group;

9 (b) A common parent corporation doing business in this state;

10 (c) A qualified subchapter S Subsidiary that is included in the return filed by the
11 Subchapter S parent corporation;

12 (d) A qualified real estate investment trust subsidiary that is included in the return
13 filed by the real estate investment trust parent; or

14 (e) A disregarded entity that is included in the return filed by its parent entity.

15 (11) (a) An affiliated group, whether or not filing a federal consolidated return, shall
16 file a consolidated return which includes all includible corporations.

17 (b) An affiliated group required to file a consolidated return under this subsection
18 shall be treated for all purposes as a single corporation under the provisions of
19 this chapter. All transactions between corporations included in the
20 consolidated return shall be eliminated in computing net income in accordance
21 with KRS 141.010(13), and in determining the property, payroll, and sales
22 factors in accordance with KRS 141.120. Includible corporations that have
23 incurred a net operating loss shall not deduct an amount that exceeds, in the
24 aggregate, fifty percent (50%) of the income realized by the remaining
25 includible corporations that did not realize a net operating loss. The portion of
26 any net operating loss limited by the application of this subsection shall be
27 available for carryforward in accordance with KRS 141.011. The department

1 ~~of Revenue~~ shall promulgate administrative regulations to establish the
2 manner and extent to which net operating losses attributable to tax periods
3 ending prior to January 1, 2005, may offset income of affiliated groups. The
4 gross receipts received by a public service company that is a member of an
5 affiliated group shall be excluded from the calculation of the alternative
6 minimum calculation under KRS 141.040. For purposes of this paragraph,
7 "public service company" has the same meaning as provided in KRS 136.120.

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

15 (13) Every corporation return or report required by this chapter shall be executed by one
16 (1) of the following officers or management of the corporation: the president, vice
17 president, secretary, treasurer, assistant secretary, assistant treasurer, chief
18 accounting officer, manager, member, or partner. The department~~[of Revenue]~~ may
19 require a further or supplemental report of further information and data necessary
20 for computation of the tax.

21 (14) In the case of a corporation doing business in this state that carries on transactions
22 with stockholders, members or partners, or with other corporations related by
23 ownership, by interlocking directorates, or by some other method, the department
24 shall require that information necessary to make possible an accurate assessment of
25 the income derived by the corporation from sources within this state be provided.
26 To make possible this assessment, the department may require the corporation to
27 file supplementary returns showing information respecting the business of any or all

1 individuals and corporations related by one (1) or more of these methods to the
2 corporation. The department may require the return to show in detail the record of
3 transactions between the corporation and any or all other related corporations or
4 individuals.

5 (15) Subsections (15) to (19) of this section apply to taxable years beginning on or
6 after January 1, 2017. As used in subsections (15) to (19) of this section:

7 (a) "Combined group" means the group of all persons whose income and
8 apportionment factors are required to be taken into account as provided in
9 subsection (16) of this section in determining the taxpayer's share of the net
10 apportionable income or loss apportionable to this state;

11 (b) "Tax haven" has the same meaning as in Section 15 of this Act; and

12 (c) "Unitary business" means a single economic enterprise that is either made
13 up of separate parts of a single business entity or of a commonly controlled
14 group of business entities that are sufficiently interdependent, integrated, or
15 interrelated through their activities so as to provide a synergy and mutual
16 benefit that produces a sharing or exchange of value among them and a
17 significant flow of value to the separate parts.

18 (16) (a) A corporation engaged in a unitary business with one (1) or more other
19 corporations shall become a member of a combined group and shall file a
20 combined report which includes:

21 1. The income of all corporations that are members of the unitary
22 business;

23 2. The apportionment factors of all corporations that are members of the
24 unitary business; and

25 3. Any other information required by the department.

26 (b) The department may, by administrative regulation, require that the
27 combined report include the income and apportionment factors of any

1 person not included as provided in paragraph (a) of this subsection, but that
2 is a member of a combined group, in order to reflect proper apportionment
3 of income from the entire unitary business. The promulgation of an
4 administrative regulation shall include the authority to require combination
5 of persons that are not subject to tax under Section 3 or 9 of this Act.

6 (c) If the department determines that the reported income or loss of a taxpayer
7 engaged in a unitary business with any person not included as provided in
8 paragraph (a) of this subsection represents an avoidance or evasion of tax
9 by the taxpayer, the department may, on a case-by-case basis, require all or
10 any part of the income and apportionment factors of that person to be
11 included in the combined report.

12 (d) The apportionment factors shall be computed as required by Section 10 of
13 this Act.

14 (17) (a) The combined report filed by a combined group shall take into account the
15 entire income and apportionment factors of any member which:

16 1. Is incorporated in the United States or formed under the laws of any
17 state, the District of Columbia, or any territory or possession of the
18 United States;

19 2. Has, regardless of the place incorporated or formed, an average of the
20 property, payroll, and sales factors within the United States equal to or
21 greater than twenty percent (20%); or

22 3. Is:

23 a. A domestic international sales corporation as described in
24 Internal Revenue Code Sections 991 to 994;

25 b. An export trade corporation as described in Internal Revenue
26 Code Sections 970 to 971; or

27 c. Doing business in a tax haven.

- 1 **(b) 1. Any member that is a controlled foreign corporation, as defined in**
2 **Internal Revenue Code Section 957, shall include the income of that**
3 **member that is defined in Section 952 of Subpart F of the Internal**
4 **Revenue Code, including lower-tier subsidiaries' distributions of that**
5 **income which were previously taxed, determined without regard to**
6 **federal treaties, and the apportionment factors related to that income.**
7 **Any income received by a controlled foreign corporation shall be**
8 **excluded if the income was subject to an effective rate of income tax**
9 **imposed by a foreign country greater than ninety percent (90%) of the**
10 **maximum rate of income tax specified in Internal Revenue Code**
11 **Section 11.**
- 12 **2. Any member that earns more than twenty percent (20%) of its income,**
13 **directly or indirectly, from intangible property or service-related**
14 **activities that are deductible against the apportionable income of other**
15 **members of the combined group shall be included to the extent of that**
16 **income and the apportionment factors related thereto.**
- 17 **(c) Any member not described in paragraph (a) or (b) of this subsection shall**
18 **include the portion of its income derived from or attributable to sources**
19 **within the United States, as determined under the Internal Revenue Code,**
20 **without regard to federal treaties, and its apportionment factors related**
21 **thereto.**
- 22 **(18) (a) 1. The use of a combined report does not disregard the separate identities**
23 **of the members within a combined group. Each taxpayer within a**
24 **combined group is responsible for tax based on its taxable income or**
25 **loss apportioned or allocated to this state, which shall include the**
26 **taxpayer's:**
- 27 **a. Share of any apportionable income apportionable to this state of**

1 each of the combined groups of which it is a member as
2 determined in paragraph (b) of this subsection;

3 b. Share of any apportionable income apportionable to this state of
4 a distinct business activity conducted within and without the
5 state wholly by the taxpayer;

6 c. Income from a business conducted wholly by the taxpayer
7 entirely within this state;

8 d. Income sourced to this state from the sale or exchange of capital
9 assets;

10 e. Nonapportionable income or loss allocable to this state;

11 f. Income or loss allocated or apportioned in an earlier year,
12 required to be taken into account in the taxable year, other than
13 a net operating loss; and

14 g. Net operating loss carryover. If the computation results in a loss
15 of a member within the combined group, that taxpayer has a
16 Kentucky net operating loss, subject to KRS 141.011. The net
17 operating loss shall be applied as a deduction in a subsequent
18 year only if that taxpayer has net income, whether or not the
19 taxpayer is or was a member of a combined group in that
20 subsequent year.

21 2. a. No tax credit earned by one (1) member of the combined group,
22 but not fully used by or allowed to that member, shall be used in
23 whole or in part by another member of the combined group or
24 applied in whole or in part against the total income of the
25 combined group.

26 b. A post-apportionment deduction carried over into a subsequent
27 year to the member that incurred the deduction, and available as

1 a deduction to that member in the subsequent year, shall be
2 considered in the computation of the income of that member in
3 the subsequent year, regardless of the composition of that
4 income as apportioned, allocated, or wholly within this state.

5 (b) 1. The taxpayer's share of the apportionable income apportionable to
6 this state of each combined group of which the taxpayer is a member
7 shall be the product of:

8 a. The apportionable income of the combined group as determined
9 in paragraph (c) of this subsection; and

10 b. The taxpayer's apportionment percentage as determined in
11 Section 10 of this Act, including in the property, payroll, and
12 sales factor numerators the taxpayer's property, payroll, and
13 sales, respectively, associated with the combined group's unitary
14 business in this state; and including in the denominator the
15 property, payroll, and sales of all members of the combined
16 group including the taxpayer, which property, payroll, and sales
17 are associated with the combined group's unitary business
18 wherever located.

19 2. The property, payroll, and sales of a partnership shall be included in
20 the determination of the partner's apportionment percentage in
21 proportion to a ratio, the numerator of which is the amount of the
22 partner's distributive share of the partnership's unitary income
23 included in the income of the combined group in accordance with
24 paragraph (c) of this subsection and the denominator of which is the
25 amount of the partnership's total unitary income.

26 (c) 1. The total income of a combined group is the sum of net income for
27 each member of the combined group.

1 2. If a unitary business includes income from a partnership, the income
2 to be included in the total income of the combined group shall be the
3 member of the combined group's direct and indirect distributive share
4 of the partnership's unitary apportionable income.

5 3. Apportionable income from an intercompany transaction between
6 members of the same combined group shall be deferred in a manner
7 similar to 26 C.F.R. sec. 1.1502-13.

8 (19) As a filing convenience, and without changing the respective liability of the
9 group members, members of a combined group may annually elect to designate
10 one (1) taxpayer of the combined group to file a combined return in the form and
11 manner prescribed by the department, in lieu of filing their own respective
12 returns, provided that the taxpayer designated to file the single return consents to
13 act as surety with respect to the tax liability of all other taxpayers properly
14 included in the combined report, and agrees to act as agent on behalf of those
15 taxpayers for the year of the election for tax matters relating to the combined
16 report for that year. If for any reason the surety is unwilling or unable to perform
17 its responsibilities, tax liability shall be assessed against the taxpayer members.

18 (20) For any taxable year ending on or after December 31, 1995, and beginning before
19 January 1, 2017, except as provided under this section and KRS 141.205, nothing
20 in this chapter shall be construed as allowing or requiring the filing of:

- 21 (a) A combined return under the unitary business concept; or
22 (b) A consolidated return.

23 (21)~~(16)~~ No assessment of additional tax due for any taxable year ending on or before
24 December 31, 1995, made after December 22, 1994, and based on requiring a
25 change from any initially filed separate return or returns to a combined return under
26 the unitary business concept or to a consolidated return, shall be effective or
27 recognized for any purpose.

1 ~~(22)~~~~(17)~~ No claim for refund or credit of a tax overpayment for any taxable year ending
2 on or before December, 31, 1995, made by an amended return or any other method
3 after December 22, 1994, and based on a change from any initially filed separate
4 return or returns to a combined return under the unitary business concept or to a
5 consolidated return, shall be effective or recognized for any purpose.

6 ~~(23)~~~~(18)~~ No corporation or group of corporations shall be allowed to file a combined
7 return under the unitary business concept or a consolidated return for any taxable
8 year ending before December 31, 1995, unless on or before December 22, 1994, the
9 corporation or group of corporations filed an initial or amended return under the
10 unitary business concept or consolidated return for a taxable year ending before
11 December 22, 1994.

12 ~~(24)~~~~(19)~~ This section shall not be construed to limit or otherwise impair the
13 department's authority under KRS 141.205.

14 ➔Section 13. KRS 141.206 is amended to read as follows:

15 (1) As used in this section unless the context requires otherwise:

16 (a) For taxable years beginning after December 31, 2004, and before January 1,
17 2007, "pass-through entity" means a general partnership not subject to the tax
18 imposed by KRS 141.040, including any publicly traded partnership as
19 defined by Section 7704(b) of the Internal Revenue Code that is treated as a
20 partnership for federal tax purposes under Section 7704(c) of the Internal
21 Revenue Code and its publicly traded partnership affiliates. "Publicly traded
22 partnership affiliates" shall include any limited liability company or limited
23 partnership for which at least eighty percent (80%) of the limited liability
24 company member interests or limited partner interests are owned directly or
25 indirectly by the publicly traded partnership; and

26 (b) For all other taxable years, "pass-through entity" means pass-through entity as
27 defined in KRS 141.010.

- 1 (2) Every pass-through entity doing business in this state shall, on or before the
2 fifteenth day of the fourth month following the close of its annual accounting
3 period, file a copy of its federal tax return with the form prescribed and furnished by
4 the department.
- 5 (3) Pass-through entities shall determine net income in the same manner as in the case
6 of an individual under KRS 141.010(9) to (11) and the adjustment required under
7 Sections 703(a) and 1363(b) of the Internal Revenue Code. Computation of net
8 income under this section and the computation of the partner's, member's, or
9 shareholder's distributive share shall be computed as nearly as practicable identical
10 with those required for federal income tax purposes except to the extent required by
11 differences between this chapter and the federal income tax law and regulations.
- 12 (4) Individuals, estates, trusts, or corporations doing business in this state as a partner,
13 member, or shareholder in a pass-through entity shall be liable for income tax only
14 in their individual, fiduciary, or corporate capacities, and no income tax shall be
15 assessed against the net income of any pass-through entity, except as required for S
16 corporations by KRS 141.040(14).
- 17 (5) (a) Every pass-through entity required to file a return under subsection (2) of this
18 section, except publicly traded partnerships as defined in KRS 141.0401(6)(r),
19 shall withhold Kentucky income tax on the distributive share, whether
20 distributed or undistributed, of each:
- 21 1. Nonresident individual partner, member, or shareholder; and
22 2. Corporate partner or member that is doing business in Kentucky only
23 through its ownership interest in a pass-through entity.
- 24 (b) Withholding shall be at the maximum rate provided in KRS 141.020 or
25 141.040.
- 26 (6) (a) Effective for taxable years beginning after December 31, 2011, every pass-
27 through entity required to withhold Kentucky income tax as provided by

1 subsection (5) of this section shall make a declaration and payment of
2 estimated tax for the taxable year if:

- 3 1. For a nonresident individual partner, member, or shareholder, the
4 estimated tax liability can reasonably be expected to exceed five
5 hundred dollars (\$500); or
- 6 2. For a corporate partner or member that is doing business in Kentucky
7 only through its ownership interest in a pass-through entity, the
8 estimated tax liability can reasonably be expected to exceed five
9 thousand dollars (\$5,000).

10 (b) The declaration and payment of estimated tax shall contain the information
11 and shall be filed as provided in KRS 141.207.

12 (7) (a) If a pass-through entity demonstrates to the department that a partner,
13 member, or shareholder has filed an appropriate tax return for the prior year
14 with the department, then the pass-through entity shall not be required to
15 withhold on that partner, member, or shareholder for the current year unless
16 the exemption from withholding has been revoked pursuant to paragraph (b)
17 of this subsection.

18 (b) An exemption from withholding shall be considered revoked if the partner,
19 member, or shareholder does not file and pay all taxes due in a timely manner.
20 An exemption so revoked shall be reinstated only with permission of the
21 department. If a partner, member, or shareholder who has been exempted from
22 withholding does not file a return or pay the tax due, the department may
23 require the pass-through entity to pay to the department the amount that
24 should have been withheld, up to the amount of the partner's, member's, or
25 shareholder's ownership interest in the entity. The pass-through entity shall be
26 entitled to recover a payment made pursuant to this paragraph from the
27 partner, member, or shareholder on whose behalf the payment was made.

- 1 (8) In determining the tax under this chapter, a resident individual, estate, or trust that is
2 a partner, member, or shareholder in a pass-through entity shall take into account
3 the partner's, member's, or shareholder's total distributive share of the pass-through
4 entity's items of income, loss, deduction, and credit.
- 5 (9) In determining the tax under this chapter, a nonresident individual, estate, or trust
6 that is a partner, member, or shareholder in a pass-through entity required to file a
7 return under subsection (2) of this section shall take into account:
- 8 (a) 1. If the pass-through entity is doing business only in this state, the
9 partner's, member's, or shareholder's total distributive share of the pass-
10 through entity's items of income, loss, and deduction; or
11 2. If the pass-through entity is doing business both within and without this
12 state, the partner's, member's, or shareholder's distributive share of the
13 pass-through entity's items of income, loss, and deduction multiplied by
14 the apportionment fraction of the pass-through entity as prescribed in
15 subsection (12) of this section; and
- 16 (b) The partner's, member's, or shareholder's total distributive share of credits of
17 the pass-through entity.
- 18 (10) A corporation that is subject to tax under KRS 141.040 and is a partner or member
19 in a pass-through entity shall take into account the corporation's distributive share of
20 the pass-through entity's items of income, loss, and deduction and:
- 21 (a) For taxable years beginning prior to January 1, 2007, the items of income,
22 loss, and deduction, when applicable, shall be multiplied by the apportionment
23 fraction of the pass-through entity as prescribed in subsection (12) of this
24 section; or
25 (b) For taxable years beginning on or after January 1, 2007:
26 1. A corporation that owns an interest in a limited liability pass-through
27 entity or that owns an interest in a general partnership organized or

1 formed as a general partnership after January 1, 2006, shall include the
2 proportionate share of the sales, property, and payroll of the limited
3 liability pass-through entity or general partnership in computing its own
4 apportionment factor;

5 2. A corporation that owns an interest in a general partnership organized or
6 formed on or before January 1, 2006, shall follow the provisions of
7 paragraph (a) of this subsection; and

8 (c) Credits from the partnership.

9 (11) (a) If a pass-through entity is doing business both within and without this state,
10 the pass-through entity shall compute and furnish to each partner, member, or
11 shareholder the numerator and denominator of each factor of the
12 apportionment fraction determined in accordance with subsection (12) of this
13 section.

14 (b) For purposes of determining an apportionment fraction under paragraph (a) of
15 this subsection, if the pass-through entity is:

16 1. Doing business both within and without this state; and

17 2. A partner or member in another pass-through entity;

18 then the pass-through entity shall be deemed to own the pro rata share of the
19 property owned or leased by the other pass-through entity, and shall also
20 include its pro rata share of the other pass-through entity's payroll and sales.

21 (c) The phrases "a partner or member in another pass-through entity" and "doing
22 business both within and without this state" shall extend to each level of
23 multiple-tiered pass-through entities.

24 (d) The attribution to the pass-through entity of the pro rata share of property,
25 payroll and sales from its role as a partner or member in another pass-through
26 entity will also apply when determining the pass-through entity's ultimate
27 apportionment factor for property, payroll and sales as required under

1 subsection (12) of this section.

2 (12) A pass-through entity doing business within and without the state shall compute an
3 apportionment fraction, the numerator of which is the property factor, representing
4 twenty-five percent (25%) of the fraction, plus the payroll factor, representing
5 twenty-five percent (25%) of the fraction, plus the sales factor, representing fifty
6 percent (50%) of the fraction, with each factor determined in the same manner as
7 provided in KRS 141.120~~[(8)]~~, and the denominator of which is four (4), reduced by
8 the number of factors, if any, having no denominator, provided that if the sales
9 factor has no denominator, then the denominator shall be reduced by two (2).

10 (13) Resident individuals, estates, or trusts that are partners in a partnership, members of
11 a limited liability company electing partnership tax treatment for federal income tax
12 purposes, owners of single member limited liability companies, or shareholders in
13 an S corporation which does not do business in this state are subject to tax under
14 KRS 141.020 on federal net income, gain, deduction, or loss passed through the
15 partnership, limited liability company, or S corporation.

16 (14) An S corporation election made in accordance with Section 1362 of the Internal
17 Revenue Code for federal tax purposes is a binding election for Kentucky tax
18 purposes.

19 (15) (a) Nonresident individuals shall not be taxable on investment income distributed
20 by a qualified investment partnership. For purposes of this subsection, a
21 "qualified investment partnership" means a pass-through entity that, during the
22 taxable year, holds only investments that produce income that would not be
23 taxable to a nonresident individual if held or owned individually.

24 (b) A qualified investment partnership shall be subject to all other provisions
25 relating to a pass-through entity under this section and shall not be subject to
26 the tax imposed under KRS 141.040 or 141.0401.

27 (16) (a) 1. A pass-through entity may file a composite income tax return on behalf

- 1 of electing nonresident individual partners, members, or shareholders.
- 2 2. The pass-through entity shall report and pay on the composite income
- 3 tax return income tax at the highest marginal rate provided in this
- 4 chapter on any portion of the partners', members', or shareholders' pro
- 5 rata or distributive shares of income of the pass-through entity from
- 6 doing business in this state or deriving income from sources within this
- 7 state. Payments made pursuant to subsection (6) of this section shall be
- 8 credited against any tax due.
- 9 3. The pass-through entity filing a composite return shall still make
- 10 estimated tax payments if required to do so by subsection (6) of this
- 11 section, and shall remain subject to any penalty provided by KRS
- 12 131.180 or 141.990 for any declaration underpayment or any installment
- 13 not paid on time.
- 14 4. The partners', members', or shareholders' pro rata or distributive share of
- 15 income shall include all items of income or deduction used to compute
- 16 adjusted gross income on the Kentucky return that is passed through to
- 17 the partner, member, or shareholder by the pass-through entity, including
- 18 but not limited to interest, dividend, capital gains and losses, guaranteed
- 19 payments, and rents.
- 20 (b) A nonresident individual partner, member, or shareholder whose only source
- 21 of income within this state is distributive share income from one (1) or more
- 22 pass-through entities may elect to be included in a composite return filed
- 23 pursuant to this section.
- 24 (c) A nonresident individual partner, member, or shareholder that has been
- 25 included in a composite return may file an individual income tax return and
- 26 shall receive credit for tax paid on the partner's behalf by the pass-through
- 27 entity.

1 (d) A pass-through entity shall deliver to the department a return upon a form
2 prescribed by the department showing the total amounts paid or credited to its
3 electing nonresident individual partners, members, or shareholders, the
4 amount paid in accordance with this subsection, and any other information the
5 department may require. A pass-through entity shall furnish to its nonresident
6 partner, member, or shareholder annually, but not later than the fifteenth day
7 of the fourth month after the end of its taxable year, a record of the amount of
8 tax paid on behalf of the partner, member, or shareholder on a form prescribed
9 by the department.

10 ➔Section 14. KRS 141.420 is amended to read as follows:

11 For taxable years beginning after December 31, 2004, and before January 1, 2007:

12 (1) (a) Every corporation identified in KRS 141.010(24)(b)2. to 8. that is doing
13 business in this state shall, on or before the fifteenth day of the fourth month
14 following the close of its annual accounting period, file a copy of its
15 applicable federal return with the form prescribed and furnished by the
16 department.

17 (b) For a corporation filing a return under paragraph (a) of this subsection, the
18 individual partner's, member's, or shareholder's distributive share of net
19 income, gain, loss, or deduction shall be computed as nearly as practicable in
20 a manner identical to that required for federal income tax purposes except to
21 the extent required by differences between this chapter and the federal income
22 tax law and regulations.

23 (2) (a) Resident individuals who are members, partners, or shareholders of a
24 corporation required to file a return under subsection (1)(a) of this section
25 shall report and pay tax on the distributive share of net income, gain, loss, or
26 deduction as determined in subsection (1)(b) of this section.

27 (b) Nonresident individuals who are members, partners, or shareholders of a

1 corporation required to file a return under subsection (1)(a) of this section
2 shall report and pay tax on the distributive share of net income, gain, loss, or
3 deduction as determined in subsection (1)(b) of this section multiplied by the
4 apportionment fraction in KRS 141.120~~[(8)]~~.

5 (3) (a) Resident and nonresident individuals who are members, shareholders, or
6 partners of a corporation required to file a return under paragraph (a) of
7 subsection (1) of this section shall be entitled to a nonrefundable credit against
8 the tax imposed under KRS 141.020.

9 (b) The credit determined under this subsection shall be the member's,
10 shareholder's, or partner's proportionate share of the tax due from the
11 corporation as determined under KRS 141.040, before the application of any
12 credits identified in KRS 141.0205(5) and reduced by the required minimum
13 imposed by KRS 141.040(7).

14 (c) Notwithstanding the provisions of paragraph (a) of this subsection, for taxable
15 years beginning after December 31, 2004, and before January 1, 2007, the
16 portion of the credit computed under paragraph (b) of this subsection that
17 exceeds the credit that would have been utilized if the corporation's income
18 were taxed at the rates in KRS 141.020 shall be refundable. The refundable
19 portion of the credit shall be the individual member's, shareholder's, or
20 partner's proportionate share of the amount computed by multiplying the
21 amount the corporation's income exceeds two hundred sixteen thousand six
22 hundred dollars (\$216,600) by one percent (1%).

23 (d) The credit determined under paragraphs (a) and (b) of this subsection shall not
24 operate to reduce the member's, shareholder's, or partner's tax due to an
25 amount that is less than what would have been payable were the income
26 attributable to doing business in this state by the corporation ignored.

27 (e) If a corporation identified in KRS 141.010(24)(b)1. to 8. is a partner,

1 shareholder, or member of another corporation identified in KRS
2 141.010(24)(b)2. to 8., the amount of income, gain, loss, deduction,
3 refundable credit, or nonrefundable credit that the entity receives from the
4 entity in which it is a partner, shareholder, or member shall proportionately
5 pass through to the corporation's individual partners, members, or
6 shareholders based upon the distributive share ratio. The phrase "a corporation
7 identified in KRS 141.010(24)(b)1. to 8. is a partner, shareholder, or member
8 of another corporation identified in KRS 141.010(24)(b)2. to 8." shall extend
9 through each level of multitiered ownership.

10 (f) The nonrefundable and refundable credits provided by this section shall be
11 allowed only to the extent that the tax is paid by the corporation. If after the
12 credits are disallowed the corporation subsequently pays the tax due, the
13 nonrefundable and refundable credits shall then be allowed.

14 (4) For purposes of computing the basis of an ownership interest or stock in a
15 corporation identified in KRS 141.010(24)(b)2. to 8., the basis attributable to a
16 member, partner, or shareholder shall be adjusted by the distributive share of the
17 items of net income, gain, loss and deduction as though the items had been passed
18 through to the member, partner, or shareholder.

19 (5) Except as otherwise provided in this chapter, distributions by or from a corporation
20 shall be treated in the same manner as they are treated for federal tax purposes.

21 ➔Section 15. KRS 141.205 is amended to read as follows:

22 (1) As used in this section:

23 (a) "Intangible property" means franchises, patents, patent applications, trade
24 names, trademarks, service marks, copyrights, trade secrets, and similar types
25 of intangible assets;

26 (b) "Intangible expenses" includes the following only to the extent that the
27 amounts are allowed as deductions or costs in determining taxable net income

1 before the application of any net operating loss deduction provided under
2 Chapter 1 of the Internal Revenue Code:

- 3 1. Expenses, losses, and costs for, related to, or in connection directly or
4 indirectly with the direct or indirect acquisition, use, maintenance,
5 management, ownership, sale, exchange, or any other disposition of
6 intangible property;
- 7 2. Losses related to, or incurred in connection directly or indirectly with,
8 factoring transactions or discounting transactions;
- 9 3. Royalty, patent, technical, and copyright fees;
- 10 4. Licensing fees; and
- 11 5. Other similar expenses and costs;

12 (c) "Intangible interest expense" means only those amounts which are directly or
13 indirectly allowed as deductions under Section 163 of the Internal Revenue
14 Code for purposes of determining taxable income under that code, to the
15 extent that the amounts are directly or indirectly for, related to, or connected
16 to the direct or indirect acquisition, use, maintenance, management,
17 ownership, sale, exchange, or any other disposition of intangible property;

18 (d) "Management fees" includes but is not limited to expenses and costs paid for
19 services pertaining to accounts receivable and payable, employee benefit
20 plans, insurance, legal, payroll, data processing, purchasing, tax, financial and
21 securities, accounting, reporting and compliance services or similar services,
22 only to the extent that the amounts are allowed as a deduction or cost in
23 determining taxable net income before application of the net operating loss
24 deduction for the taxable year provided under Chapter 1 of the Internal
25 Revenue Code;

26 (e) "Affiliated group" has the same meaning as provided in KRS 141.200;

27 (f) "Foreign corporation" means a corporation that is organized under the laws of

1 a country other than the United States and that would be a related member if it
2 were a domestic corporation;

3 (g) "Related member" means a person that, with respect to the entity during all or
4 any portion of the taxable year, is:

- 5 1. A person or entity that has, directly or indirectly, at least fifty percent
6 (50%) of the equity ownership interest in the taxpayer, as determined
7 under Section 318 of the Internal Revenue Code;
- 8 2. A component member as defined in Section 1563(b) of the Internal
9 Revenue Code;
- 10 3. A person to or from whom there is attribution of stock ownership in
11 accordance with Section 1563(e) of the Internal Revenue Code; or
- 12 4. A person that, notwithstanding its form of organization, bears the same
13 relationship to the taxpayer as a person described in subparagraphs 1. to
14 3. of this paragraph;

15 (h) "Recipient" means a related member or foreign corporation to whom the item
16 of income that corresponds to the intangible interest expense, the intangible
17 expense, or the management fees, is paid;

18 (i) "Unrelated party" means a person that has no direct, indirect, beneficial or
19 constructive ownership interest in the recipient; and in which the recipient has
20 no direct, indirect, beneficial or constructive ownership interest;

21 (j) "Disclosure" means that the entity shall provide the following information to
22 the Department of Revenue with its tax return regarding a related party
23 transaction:

- 24 1. The name of the recipient;
- 25 2. The state or country of domicile of the recipient;
- 26 3. The amount paid to the recipient; and
- 27 4. A description of the nature of the payment made to the recipient;

1 (k) "Other related party transaction" means a transaction which:

- 2 1. Is undertaken by an entity which was not required to file a consolidated
3 return under KRS 141.200;
- 4 2. Is undertaken by an entity, directly or indirectly, with one (1) or more of
5 its stockholders, members, partners, or affiliated entities; and
- 6 3. Is not within the scope of subsections (2) and (3) of this section;

7 (l) "Related party costs" means intangible expense, intangible interest expense,
8 management fees and any costs or expenses associated with other related party
9 transactions;~~and~~

10 (m) "Entity" means any taxpayer other than a natural person;

11 **(n) "Reportable transaction" means any transaction or arrangement:**

12 **1. Having the potential for avoidance or evasion of the tax imposed by**
13 **KRS 141.020 or 141.040 and 141.0401, whether through:**

14 **a. Deduction;**

15 **b. Credit;**

16 **c. Exclusion or omission of any income;**

17 **d. Manipulation of any allocation or apportionment rule; or**

18 **e. The securing of any other tax benefit;**

19 **2. Described in 26 C.F.R. sec. 1.6011-4;**

20 **3. Identified as a tax avoidance transaction for purposes of 26 U.S.C.**
21 **sec. 6011;**

22 **4. Lacking economic substance, including the creation of an entity**
23 **lacking a valid nontax business purpose; or**

24 **5. With an entity that is incorporated in a tax haven; and**

25 **(o) "Tax haven" means:**

26 **1. Andorra;**

27 **2. Anguilla;**

- 1 3. *Antigua;*
- 2 4. *Aruba;*
- 3 5. *The Bahamas;*
- 4 6. *Bahrain;*
- 5 7. *Barbados;*
- 6 8. *Barbuda;*
- 7 9. *Belize;*
- 8 10. *Bermuda;*
- 9 11. *British Virgin Islands;*
- 10 12. *Caicos Islands;*
- 11 13. *Cayman Islands;*
- 12 14. *Cook Islands;*
- 13 15. *Cyprus;*
- 14 16. *Dominica;*
- 15 17. *Gibraltar;*
- 16 18. *Grenada;*
- 17 19. *Grenadines;*
- 18 20. *Guernsey-Sark-Alderney;*
- 19 21. *Isle of Man;*
- 20 22. *Jersey;*
- 21 23. *Liberia;*
- 22 24. *Liechtenstein;*
- 23 25. *Luxembourg;*
- 24 26. *Malta;*
- 25 27. *Marshall Islands;*
- 26 28. *Mauritius;*
- 27 29. *Monaco;*

1 30. Montserrat;

2 31. Nauru;

3 32. Netherlands Antilles;

4 33. Nevis;

5 34. Niue;

6 35. Panama;

7 36. Samoa;

8 37. San Marino;

9 38. Seychelles;

10 39. St. Kitts;

11 40. St. Lucia;

12 41. St. Vincent;

13 42. Turks;

14 43. U.S. Virgin Islands; or

15 44. Vanuatu.

16 (2) An entity subject to the tax imposed by this chapter shall not be allowed to deduct
17 an intangible expense, an intangible interest expense, or a management fee directly
18 or indirectly paid, accrued or incurred to, or in connection directly or indirectly with
19 one (1) or more direct or indirect transactions with one (1) or more related members
20 or with a foreign corporation as defined in subsection (1) of this section, or with an
21 entity that would be included in the affiliated group based upon ownership interest
22 if it were organized as a corporation.

23 (3) The disallowance of deductions provided by subsection (2) of this section shall not
24 apply if:

25 (a) The entity and the recipient are both included in the same consolidated
26 Kentucky corporation income tax return for the relevant taxable year; or

27 (b) The entity makes a disclosure, and establishes by a preponderance of the

1 evidence that:

- 2 1. The payment made to the recipient was subject to, in its state or country
3 of commercial domicile, a net income tax, or a franchise tax measured
4 by, in whole or in part, net income. If the recipient is a foreign
5 corporation, the foreign nation shall have in force a comprehensive
6 income tax treaty with the United States; and
- 7 2. The recipient is engaged in substantial business activities separate and
8 apart from the acquisition, use, licensing, management, ownership, sale,
9 exchange, or any other disposition of intangible property, or in the
10 financing of related members, as evidenced by the maintenance of
11 permanent office space and full-time employees dedicated to the
12 maintenance and protection of intangible property; and
- 13 3. The transaction giving rise to the intangible interest expense, intangible
14 expense, or management fees between the entity and the recipient was
15 made at a commercially reasonable rate and at terms comparable to an
16 arm's-length transaction; or
- 17 (c) The entity makes a disclosure, and establishes by preponderance of the
18 evidence that the recipient regularly engages in transactions with one (1) or
19 more unrelated parties on terms identical to that of the subject transaction; or
- 20 (d) The entity and the Department of Revenue agree in writing to the application
21 or use of an alternative method of apportionment under KRS
22 141.120~~(14)~~~~(9)~~.
- 23 (4) An entity subject to the tax imposed by this chapter may deduct expenses or costs
24 associated with an other related party transaction only in an amount equal to the
25 amount which would have resulted if the other related party transaction had been
26 carried out at arm's length. In any dispute between the department and the entity
27 with respect to the amount which would have resulted if the transaction had been

1 carried out at arm's length, the entity shall bear the burden of establishing the
2 amount by a preponderance of the evidence.

3 (5) Nothing in this section shall be deemed to prohibit an entity from deducting a
4 related party cost in an amount permitted by this section, provided that the entity
5 has incurred related party costs equal to or greater than the amounts permitted by
6 this section.

7 (6) If it is determined by the department that the amount of a deduction claimed by an
8 entity with respect to a related party cost is greater than the amount permitted by
9 this section, the net income of the entity shall be adjusted to reflect the amount of
10 the related party cost permitted by this section.

11 (7) For taxable years~~[tax periods]~~ ending before January 1, 2005, in the case of entities
12 not required to file a consolidated or combined return under subsection (1) of this
13 section that carried on transactions with stockholders or affiliated entities directly or
14 indirectly, the department shall adjust the net income of such entities to an amount
15 that would result if such transactions were carried on at arm's length.

16 (8) (a) For taxable years beginning on or after January 1, 2017, any person that is
17 subject to the taxes imposed by this chapter and that has participated in a
18 reportable transaction shall disclose the reportable transaction on:

19 1. The return filed for the taxable year in which the reportable
20 transaction occurred;

21 2. Any amended return for the taxable year in which the reportable
22 transaction occurred; and

23 3. Any return for any other taxable year reflecting a reduction in tax
24 resulting from the reportable transaction.

25 (b) Any income resulting from a reportable transaction shall be included in the
26 computation of gross income defined in KRS 141.010(9) or (12).

27 (c) Any deduction, credit, exclusion, or any other tax benefit accruing from a

1 reportable transaction shall be disallowed.

2 (d) For purposes of Section 10 of this Act, income shifted to a tax haven, to the
3 extent taxable under this chapter, shall be income subject to apportionment.

4 (e) Any person failing to include information on any return or report any
5 income related to a reportable transaction shall pay a ten percent (10%)
6 penalty on the tax liability ultimately due for the taxable year, in addition to
7 any other penalty levied pursuant to KRS 131.180 or 141.990.

8 (f) No privilege of confidentiality shall apply to any written communication
9 which is between a tax practitioner and any other person related to the
10 promotion of the direct or indirect participation of that person in any
11 reportable transaction.

12 (9) The department may require any person to submit an accounting, in spreadsheet
13 format, to provide full disclosure for the taxable year of the:

14 (a) Income reported to each state or nation;

15 (b) Tax liability for each state or nation;

16 (c) Method used for allocating or apportioning income to the states or nations;

17 and

18 (d) Identity of any group of taxpayers filing within a single report or return for
19 any state or nation.

20 (10) On July 1, 2018, and annually thereafter, the department shall report to the
21 Interim Joint Committee on Appropriations and Revenue with an update of
22 countries that may be considered a tax haven as defined in subsection (1) of this
23 section.

24 ➔Section 16. KRS 141.383 is amended to read as follows:

25 (1) As used in this section:

26 (a) "Above-the-line production crew" means the same as defined in KRS
27 148.542;

- 1 (b) "Approved company" means the same as defined in KRS 148.542;
- 2 (c) "Below-the-line production crew" means the same as defined in KRS 148.542;
- 3 (d) "Cabinet" means the same as defined in KRS 148.542;
- 4 (e) "Office" means the same as defined in KRS 148.542;
- 5 (f) "Qualifying expenditure" means the same as defined in KRS 148.542;
- 6 (g) "Qualifying payroll expenditure" means the same as defined in KRS 148.542;
- 7 (h) "Secretary" means the same as defined in KRS 148.542; and
- 8 (i) "Tax incentive agreement" means the same as defined in KRS 148.542.
- 9 (2) There is hereby created a **nonrefundable and nontransferable**~~refundable~~ tax
10 credit against the tax imposed under KRS 141.020 or 141.040 and 141.0401, with
11 the ordering of credits as provided in KRS 141.0205.
- 12 (3) An approved company may receive a~~refundable~~ tax credit on and after July 1,
13 2010, if:
- 14 (a) The cabinet has received notification from the office that the approved
15 company has satisfied all requirements of KRS 148.542 to 148.546; and
- 16 (b) The approved company has provided a detailed cost report and sufficient
17 documentation to the office, which has been forwarded by the office to the
18 cabinet, that:
- 19 1. The purchases of qualifying expenditures were made after the execution
20 of the tax incentive agreement; and
- 21 2. The approved company has withheld income tax as required by KRS
22 141.310 on all qualified payroll expenditures.
- 23 (4) The~~refundable~~ tax credit shall not apply until the taxable year in which the
24 secretary notifies the approved company of the amount of~~refundable~~ credit that is
25 available. If the notification of approval is provided prior to July 1, 2010, the
26 company shall not claim the credit and the department shall not issue any refunds
27 until on or after July 1, 2010.

1 ~~(5) Interest shall not be allowed or paid on any refundable credits provided under this~~
2 ~~section.~~

3 ~~(6)~~ The cabinet shall promulgate administrative regulations in accordance with KRS
4 Chapter 13A to administer this section.

5 ~~(6)~~~~(7)~~ On or before September 1, 2010, and on or before each September 1
6 thereafter, for the immediately preceding fiscal year, the cabinet shall report to the
7 office the names of the approved companies and the amounts of ~~refundable~~
8 income tax credit claimed.

9 ➔Section 17. KRS 148.544 is amended to read as follows:

10 (1) The purposes of KRS 141.383 and 148.542 to 148.546 are to:

- 11 (a) Encourage the film and entertainment industry to choose locations in the
12 Commonwealth for the filming and production of motion picture or
13 entertainment productions;
- 14 (b) Encourage the development of a film and entertainment industry in Kentucky;
- 15 (c) Encourage increased employment opportunities for the citizens of the
16 Commonwealth within the film and entertainment industry; and
- 17 (d) Encourage the development of a production and postproduction infrastructure
18 in the Commonwealth for film production and touring Broadway show
19 production facilities containing state-of-the-art technologies.

20 (2) The Kentucky Film Office is hereby established in the Tourism, Arts and Heritage
21 Cabinet to administer, together with the Finance and Administration Cabinet and
22 the Tourism Development Finance Authority, the tax incentive established by KRS
23 141.383 and 148.542 to 148.546.

24 (3) To qualify for the tax incentive provided in subsection (4) of this section, the
25 following requirements shall be met:

26 (a) For an approved company that is also a Kentucky-based company that:

27 1. Films or produces a feature-length film, television program, or industrial

- 1 film in whole or in part in the Commonwealth, the minimum combined
2 total of qualifying expenditures and qualifying payroll expenditures shall
3 be one hundred twenty-five thousand dollars (\$125,000);
- 4 2. Films or produces a commercial in whole or in part in the
5 Commonwealth that is distributed regionally or nationally, the minimum
6 combined total of qualifying expenditures and qualifying payroll
7 expenditures shall be one hundred thousand dollars (\$100,000);
- 8 3. Produces a national touring production of a Broadway show in whole or
9 in part in the Commonwealth, the minimum combined total of
10 qualifying expenditures and qualifying payroll expenditures shall be
11 twenty thousand dollars (\$20,000); or
- 12 4. Films or produces a documentary in whole or in part in the
13 Commonwealth, the minimum combined total of qualifying
14 expenditures and qualifying payroll expenditures shall be ten thousand
15 dollars (\$10,000); and
- 16 (b) For an approved company that is not a Kentucky-based company that:
- 17 1. Films or produces a feature-length film, television program, or industrial
18 film in whole or in part in the Commonwealth, the minimum combined
19 total of qualifying expenditures and qualifying payroll expenditures shall
20 be two hundred fifty thousand dollars (\$250,000);
- 21 2. Films or produces a commercial in whole or in part in the
22 Commonwealth that is distributed regionally or nationally, the minimum
23 combined total of qualifying expenditures and qualifying payroll
24 expenditures shall be one hundred thousand dollars (\$100,000); or
- 25 3. Films or produces a documentary in whole or in part in the
26 Commonwealth or that produces a national touring production of a
27 Broadway show, the minimum combined total of qualifying

1 expenditures and qualifying payroll expenditures shall be twenty
2 thousand dollars (\$20,000).

3 (4) (a) The incentive available under KRS 141.383 and 148.542 to 148.546 is a
4 **nonrefundable and nontransferable**~~[refundable]~~ credit against the Kentucky
5 income tax imposed under KRS 141.020 or 141.040, and the limited liability
6 entity tax imposed under KRS 141.0401, as provided in KRS 141.383.

7 (b) 1. For a motion picture or entertainment production filmed or produced in
8 its entirety in an enhanced incentive county, the amount of the incentive
9 shall be equal to thirty-five percent (35%) of the approved company's:

- 10 a. Qualifying expenditures;
11 b. Qualifying payroll expenditures paid to resident and nonresident
12 below-the-line production crew; and
13 c. Qualifying payroll expenditures paid to resident and nonresident
14 above-the-line production crew not to exceed one million dollars
15 (\$1,000,000) in payroll expenditures per employee.

16 2. a. To the extent the approved company films or produces a motion
17 picture or entertainment production in part in an enhanced
18 incentive county and in part a Kentucky county that is not an
19 enhanced incentive county, the approved company shall be eligible
20 to receive the incentives provided in this paragraph for those
21 expenditures incurred in the enhanced incentive county and all
22 other expenditures shall be subject to the incentives provided in
23 paragraph (c) of this subsection.

24 b. The approved company shall track the requisite expenditures by
25 county. If the approved company can demonstrate to the
26 satisfaction of the cabinet that it is not practical to use a separate
27 accounting method to determine the expenditures by county, the

1 approved company shall determine the correct expenditures by
2 county using an alternative method approved by the cabinet.

3 (c) For a motion picture or entertainment production filmed or produced in whole
4 or in part in any Kentucky county other than in an enhanced incentive county,
5 the amount of the incentive shall be equal to:

- 6 1. Thirty percent (30%) of the approved company's:
 - 7 a. Qualifying expenditures;
 - 8 b. Qualifying payroll expenditures paid to below-the-line production
9 crew that are not residents; and
 - 10 c. Qualifying payroll expenditures paid to above-the-line production
11 crew that are not residents, not to exceed one million dollars
12 (\$1,000,000) in payroll expenditures per employee; and
- 13 2. Thirty-five percent (35%) of the approved company's:
 - 14 a. Qualifying payroll expenditures paid to resident below-the-line
15 production crew; and
 - 16 b. Qualifying payroll expenditures paid to resident above-the-line
17 production crew not to exceed one million dollars (\$1,000,000) in
18 payroll expenditures per employee.

19 ~~{(d) The Tourism Development Finance Authority may accept applications,~~
20 ~~authorize the execution of tax incentive agreements, and enter into tax~~
21 ~~incentive agreements beginning on June 26, 2009; however, no credit amount~~
22 ~~shall be claimed by the taxpayer as a refund or paid by the Department of~~
23 ~~Revenue prior to July 1, 2010.}~~

24 ➔Section 18. KRS 148.546 is amended to read as follows:

- 25 (1) An eligible company shall, at least thirty (30) days prior to incurring any
26 expenditure for which recovery will be sought, file an application for tax incentives
27 with the office. The application shall include:

- 1 (a) The name and address of the applicant;
- 2 (b) Verification that the applicant is a Kentucky-based company;
- 3 (c) The production script or a detailed synopsis of the script;
- 4 (d) The locations where the filming or production will occur;
- 5 (e) The anticipated date on which filming or production shall begin;
- 6 (f) The anticipated date on which the production will be completed;
- 7 (g) The total anticipated qualifying expenditures;
- 8 (h) The total anticipated qualifying payroll expenditures for resident and
- 9 nonresident above-the-line crew by county;
- 10 (i) The total anticipated qualifying payroll expenditures for resident and
- 11 nonresident below-the-line crew by county;
- 12 (j) The address of a Kentucky location at which records of the production will be
- 13 kept;
- 14 (k) An affirmation that if not for the incentive offered under KRS 148.542 to
- 15 148.546, the eligible company would not film or produce the production in the
- 16 Commonwealth; and
- 17 (l) Any other information the office may require.
- 18 (2) The office shall notify the eligible company within thirty (30) days after receiving
- 19 the application of its status.
- 20 (3) (a) Upon review of the application and any additional information submitted, the
- 21 office shall present the application and its recommendation to the Tourism
- 22 Development Finance Authority established by KRS 148.850 which may, by
- 23 resolution, authorize the execution of a tax incentive agreement between the
- 24 Tourism Development Finance Authority and the approved company.
- 25 (b) 1. The total amount of tax credits authorized by the Tourism Development
- 26 Finance Authority during fiscal year 2010-2011 shall not exceed five
- 27 million dollars (\$5,000,000).

- 1 2. The total amount of tax credits authorized by the Tourism Development
2 Finance Authority during the fiscal year 2011-2012 shall not exceed
3 seven million five hundred thousand dollars (\$7,500,000).
- 4 (4) The tax incentive agreement shall include the following provisions:
- 5 (a) The duties and responsibilities of the parties;
- 6 (b) A detailed description of the motion picture or entertainment production for
7 which incentives are requested;
- 8 (c) The anticipated qualifying expenditures and qualifying payroll expenditures
9 for resident and nonresident above-the-line and below-the-line crews by
10 county;
- 11 (d) The minimum combined total of qualifying expenditures and qualifying
12 payroll expenditures necessary for the approved company to qualify for
13 incentives;
- 14 (e) That the approved company shall have no more than two (2) years from the
15 date the tax incentive agreement is executed to start the motion picture or
16 entertainment production;
- 17 (f) That the approved company shall have no more than four (4) years from the
18 execution of the tax incentive agreement to complete the motion picture or
19 entertainment production;
- 20 (g) That the motion picture or entertainment production shall not include obscene
21 materials and shall not negatively impact the economy or the tourism industry
22 of the Commonwealth;
- 23 (h) That the execution of the agreement is not a guarantee of tax incentives and
24 that actual receipt of the incentives shall be contingent upon the approved
25 company meeting the requirements established by the tax incentive
26 agreement;
- 27 (i) That the approved company shall submit to the office within one hundred

- 1 eighty (180) days of the completion of the motion picture or entertainment
2 production a detailed cost report of the qualifying expenditures, qualifying
3 payroll expenditures, and final script;
- 4 (j) That the approved company shall provide the office with documentation that
5 the approved company has withheld income tax as required by KRS 141.310
6 on all qualified payroll expenditures for which an incentive under KRS
7 141.383 and 148.544 is sought;
- 8 (k) That, if the office determines that the approved company has failed to comply
9 with any of its obligations under the tax incentive agreement:
- 10 1. The office may deny the incentives available to the approved company;
11 2. Both the office and the cabinet may pursue any remedy provided under
12 the tax incentive agreement;
13 3. The office may terminate the tax incentive agreement; and
14 4. Both the office and the cabinet may pursue any other remedy at law to
15 which it may be entitled;
- 16 (l) That the office shall monitor the tax incentive agreement;
- 17 (m) That the approved company shall provide to the office and the cabinet all
18 information necessary to monitor the tax incentive agreement;
- 19 (n) That the office may share information with the cabinet or any other entity the
20 office determines is necessary for the purposes of monitoring and enforcing
21 the terms of the tax incentive agreement;
- 22 (o) That the motion picture or entertainment production shall contain an
23 acknowledgment that the motion picture or entertainment production was
24 produced or filmed in the Commonwealth of Kentucky;
- 25 (p) That the approved company shall include screen credits in its final production
26 that:
- 27 1. Indicate that the approved company received tax incentives from the

- 1 Commonwealth of Kentucky; and
- 2 2. Display the "Unbridled Spirit" logo;
- 3 (q) Terms of default;
- 4 (r) The method and procedures by which the approved company shall request and
- 5 receive the incentive provided under KRS 141.383 and 148.544;
- 6 (s) That the approved company may be required to pay an administrative fee as
- 7 authorized under subsection (5) of this section; and
- 8 (t) Any other provisions deemed necessary or appropriate by the parties to the tax
- 9 incentive agreement.
- 10 (5) The office may require the approved company to pay an administrative fee, the
- 11 amount of which shall be established by administrative regulation promulgated in
- 12 accordance with KRS Chapter 13A. The administrative fee shall not exceed one-
- 13 half of one percent (0.5%) of the estimated amount of tax incentive sought or five
- 14 hundred dollars (\$500), whichever is greater.
- 15 (6) Prior to commencement of activity as provided in a tax incentive agreement, the tax
- 16 incentive agreement shall be submitted to the Government Contract Review
- 17 Committee established by KRS 45A.705 for review, as provided in KRS 45A.695,
- 18 45A.705, and 45A.725.
- 19 (7) The office shall notify the cabinet upon approval of an approved company. The
- 20 notification shall include the name of the approved company, the name of the
- 21 motion picture or entertainment production, the estimated amount of qualifying
- 22 expenditures, the estimated date on which the approved company will complete
- 23 filming or production, and any other information required by the cabinet.
- 24 (8) Within one hundred eighty days (180) days of completion of the motion picture or
- 25 entertainment production, the approved company shall submit to the office a
- 26 detailed cost report of:
- 27 (a) Qualifying expenditures;

- 1 (b) Qualifying payroll expenditures for resident and nonresident above-the-line
2 crew by county;
- 3 (c) Qualifying payroll expenditures for resident and nonresident below-the-line
4 crew by county; and
- 5 (d) The final script.
- 6 (9) (a) The office, together with the secretary, shall review all information submitted
7 for accuracy and shall confirm that all relevant provisions of the tax incentive
8 agreement have been met.
- 9 (b) Upon confirmation that all requirements of the tax incentive agreement have
10 been met, the office, and the secretary shall review the final script, and if they
11 determine that the motion picture or entertainment production does not:
- 12 1. Contain visual or implied scenes that are obscene; or
- 13 2. Negatively impact the economy or the tourism industry of the
14 Commonwealth;
- 15 the office shall forward the detailed cost report to the cabinet for calculation
16 of the ~~refundable~~ credit.
- 17 (10) The cabinet shall verify that the approved company withheld the proper amount of
18 income tax on qualifying payroll expenditures, and the cabinet shall notify the
19 office of the total amount of ~~refundable~~ credit available on qualifying expenditures
20 and qualifying payroll expenditures.
- 21 (11) On or before October 1, 2010, and on or before each October 1 thereafter, for the
22 immediately preceding fiscal year, the office shall report to the Tourism
23 Development Finance Authority:
- 24 (a) The number of tax incentive agreements that have been executed;
- 25 (b) The estimated amount of tax incentives that have been requested under KRS
26 141.383 and 148.542 to 148.546; and
- 27 (c) The amount of tax incentives approved under KRS 139.538, 141.383, and

1 148.542 to 148.546.

2 (12) (a) By November 1 of each year, the authority shall file an annual report with the
3 Governor and the Legislative Research Commission. The report shall be
4 submitted in cooperation with the Cabinet for Economic Development and
5 included in the single annual report required in KRS 154.12-2035. The report
6 shall also be available on the Tourism, Arts and Heritage Cabinet's Web site.

7 (b) The report shall include information for all motion picture or entertainment
8 production projects approved.

9 (c) The report shall include the following information:

10 1. For each approved motion picture or entertainment production project:

11 a. The name of the approved company and a brief description of the
12 project;

13 b. The amount of approved costs included in the agreement; and

14 c. The total amount recovered under the tax incentive agreement;

15 2. The number of applications for projects submitted during the prior fiscal
16 year;

17 3. The number of projects finally approved during the prior fiscal year; and

18 4. The total dollar amount approved for recovery for all projects approved
19 during the prior fiscal year, and cumulatively under KRS 141.383 and
20 148.542 to 148.546 since its inception, by year of approval.

21 (d) The information required to be reported under this section shall not be
22 considered confidential taxpayer information and shall not be subject to KRS
23 Chapter 131 or any other provisions of the Kentucky Revised Statutes
24 prohibiting disclosure or reporting of information.

25 ➔SECTION 19. A NEW SECTION OF KRS 6.905 TO 6.935 IS CREATED TO
26 READ AS FOLLOWS:

27 **(1) The General Assembly finds that a systematic review of the inducements for tax**

1 increment financing, tourism development, and economic development programs
2 is appropriate and necessary to ensure that:

3 (a) The general welfare and material well-being of the citizens of the
4 Commonwealth are maintained;

5 (b) The development, growth, and maintenance of commerce and industry are
6 sustained; and

7 (c) The public purpose of relieving unemployment is advanced.

8 (2) (a) As provided by the timetable established in subsection (5) of this section,
9 each tax increment financing, tourism development, and economic
10 development program referenced in this section shall expire.

11 (b) Without further action by the General Assembly, no additional tax
12 increment financing, tourism development, or economic development
13 projects authorized under a particular tax increment financing, tourism
14 development, or economic development program shall receive final approval
15 after the expiration date of that particular program.

16 (c) A project grant agreement or a tax incentive agreement receiving final
17 approval prior to the expiration date of a tax increment financing, tourism
18 development, or economic development program shall continue to be
19 administered as provided by the approved agreement and in accordance
20 with the expired statutory provisions.

21 (d) Any extension of the provisions of a tax increment financing, tourism
22 development, or economic development program by the General Assembly
23 shall include a sunset date no later than the June 30 occurring eight (8)
24 years following the effective date of the extension.

25 (e) Any new provisions establishing a tax increment financing, tourism
26 development, or economic development program by the General Assembly
27 shall include a sunset date no later than the June 30 occurring eight (8)

1 years following the effective date of the provision.

2 (3) (a) Beginning January 1 of the year prior to the year in which a program is set
3 to expire under the timetable established in subsection (5) of this section, a
4 systematic review of the program shall be conducted by the committee with
5 the assistance of the Tourism, Arts and Heritage Cabinet, the Cabinet for
6 Economic Development, and the Department of Revenue, except that the
7 first systematic review shall begin within thirty (30) days after the effective
8 date of this Act.

9 (b) The results of the systematic review shall be presented to the Legislative
10 Research Commission no later than November 30 of the year occurring
11 prior to the expiration date of the program.

12 (c) The Legislative Research Commission may employ a consultant to assist in
13 the systematic review of the program. If a consultant is employed, the
14 consultant shall be held to the same confidentiality standards as the
15 Legislative Research Commission staff as provided in subsection (8) of
16 Section 20 of this Act.

17 (4) The systematic review shall consider the following, as applicable to the program
18 under review:

19 (a) Whether the program is being administered and used as intended by the
20 General Assembly;

21 (b) Whether there are administrative issues which hinder the effectiveness of
22 the program;

23 (c) Whether the agency consistently applies the statutory criteria when
24 awarding tax incentives;

25 (d) Whether the direct benefit received by the Commonwealth from the
26 program exceeds the cost of the program to the Commonwealth;

27 (e) Whether the direct gains from the investment in the program by the

- 1 Commonwealth produce an acceptable return on that investment;
- 2 (f) Whether there is duplication or overlapping of the program with other
- 3 programs administered in the Commonwealth;
- 4 (g) Whether the program is affecting the economic condition of the
- 5 Commonwealth;
- 6 (h) Whether tax incentives are given only when necessary to fulfill the goals
- 7 outlined in subsection (1) of this section;
- 8 (i) Whether tax incentives are sufficiently and appropriately targeted to
- 9 produce the benefit expected for the Commonwealth;
- 10 (j) Whether, on a project-by-project basis, the benefit received by the
- 11 Commonwealth from the tax incentives awarded for the project exceeds the
- 12 cost of the tax incentives;
- 13 (k) Whether, on a project-by-project basis, the direct gains from the investment
- 14 in the program by the Commonwealth produce an acceptable return on that
- 15 investment;
- 16 (l) Whether the performance standards within each project agreement are
- 17 being met by the approved company;
- 18 (m) Whether the performance standards and other items contained in the
- 19 agreement are enforced; and
- 20 (n) Whether the performance standards and program requirements are
- 21 sufficient to accomplish legislative intent.
- 22 (5) (a) The following timetable shall be followed for the expiration of economic
- 23 development programs:
- 24 1. The Skills Training Investment Credit Act provided by KRS 154.12-
- 25 2084 to 154.12-2089 shall expire on June 30, 2018;
- 26 2. The Kentucky Investment Fund Act provided by KRS 154.20-250 to
- 27 154.20-284 shall expire on June 30, 2019;

- 1 3. The Kentucky Alternative Fuel and Renewable Energy Fund Program
- 2 provided by KRS 154.20-400 to 154.20-420 shall expire on June 30,
- 3 2021;
- 4 4. The economic development incentives for companies provided by KRS
- 5 154.25-010 to 154.25-050 shall expire on June 30, 2021;
- 6 5. The Kentucky Industrial Revitalization Act provided by KRS 154.26-
- 7 010 to 154.26-120 shall expire on June 30, 2018;
- 8 6. The Incentives for Energy Independence Act provided by KRS 154.27-
- 9 010 to 154.27-100 shall expire on June 30, 2021;
- 10 7. The tax increment financing provisions established in KRS 154.30-
- 11 010 to 154.30-090 shall expire on June 30, 2020;
- 12 8. The Kentucky Investment Act provided by KRS 154.31-010 to 154.31-
- 13 030 shall expire on June 30, 2023;
- 14 9. The Kentucky Business Investment Program provided by KRS 154.32-
- 15 010 to 154.32-100 shall expire on June 30, 2023;
- 16 10. The Kentucky Reinvestment Act provided by KRS 154.34-010 to
- 17 154.34-100 shall expire on June 30, 2019;
- 18 11. The Kentucky Environmental Stewardship Act provided by KRS
- 19 154.48-010 to 154.48-035 shall expire on June 30, 2019;
- 20 12. The Small Business Tax Credit Program provided by KRS 154.60-010
- 21 to 154.60-030 shall expire on June 30, 2023;
- 22 13. The Kentucky Enterprise Initiative Act provided by KRS 154.20-200 to
- 23 154.20-216 shall expire on June 30, 2022;
- 24 14. The Endow Kentucky credit permitted by KRS 141.438 shall expire on
- 25 December 31, 2025;
- 26 15. The New Markets Development Program credit permitted by KRS
- 27 141.434 shall expire on December 31, 2025; and

1 16. The distilled spirits tax credit permitted by KRS 141.389 shall expire
2 on December 31, 2025.

3 (b) The Kentucky Tourism Development Act provided by KRS 139.536 and
4 148.851 to 148.860 shall expire on June 30, 2018.

5 ➔Section 20. KRS 131.190 is amended to read as follows:

6 (1) (a) No present or former commissioner or employee of the department~~[of~~
7 Revenue], present or former member of a county board of assessment appeals,
8 present or former property valuation administrator or employee, present or
9 former secretary or employee of the Finance and Administration Cabinet,
10 former secretary or employee of the Revenue Cabinet, or any other person,
11 shall intentionally and without authorization inspect or divulge any
12 information acquired by him of the affairs of any person, or information
13 regarding the tax schedules, returns, or reports required to be filed with the
14 department or other proper officer, or any information produced by a hearing
15 or investigation, insofar as the information may have to do with the affairs of
16 the person's business.

17 (b) The prohibition established by paragraph (a) of this subsection does not
18 extend to:

- 19 1. Information required in prosecutions for making false reports or returns
20 of property for taxation, or any other infraction of the tax laws;
- 21 2. Any matter properly entered upon any assessment record, or in any way
22 made a matter of public record;
- 23 3. Furnishing any taxpayer or his properly authorized agent with
24 information respecting his own return;
- 25 4. Testimony provided by the commissioner or any employee of the
26 department~~[of Revenue]~~ in any court, or the introduction as evidence of
27 returns or reports filed with the department, in an action for violation of

- 1 state or federal tax laws or in any action challenging state or federal tax
2 laws;
- 3 5. Providing an owner of unmined coal, oil or gas reserves, and other
4 mineral or energy resources assessed under KRS 132.820(1), or owners
5 of surface land under which the unmined minerals lie, factual
6 information about the owner's property derived from third-party returns
7 filed for that owner's property, under the provisions of KRS 132.820(2),
8 that is used to determine the owner's assessment. This information shall
9 be provided to the owner on a confidential basis, and the owner shall be
10 subject to the penalties provided in KRS 131.990(2). The third-party
11 filer shall be given prior notice of any disclosure of information to the
12 owner that was provided by the third-party filer;
- 13 6. Providing to a third-party purchaser pursuant to an order entered in a
14 foreclosure action filed in a court of competent jurisdiction, factual
15 information related to the owner or lessee of coal, oil, gas reserves, or
16 any other mineral resources assessed under KRS 132.820(1). The
17 department may promulgate an administrative regulation establishing a
18 fee schedule for the provision of the information described in this
19 subparagraph. Any fee imposed shall not exceed the greater of the actual
20 cost of providing the information or ten dollars (\$10); or
- 21 7. Providing information to a licensing agency, the Transportation Cabinet,
22 or the Kentucky Supreme Court under KRS 131.1817.
- 23 (2) The commissioner shall make available any information for official use only and on
24 a confidential basis to the proper officer, agency, board or commission of this state,
25 any Kentucky county, any Kentucky city, any other state, or the federal government,
26 under reciprocal agreements whereby the department shall receive similar or useful
27 information in return.

- 1 (3) Statistics of tax-paid gasoline gallonage reported monthly to the department~~[of~~
2 ~~Revenue]~~ under the gasoline excise tax law may be made public by the department.
- 3 (4) Access to and inspection of information received from the Internal Revenue Service
4 is for department~~[of Revenue]~~ use only, and is restricted to tax administration
5 purposes. Notwithstanding the provisions of this section to the contrary, information
6 received from the Internal Revenue Service shall not be made available to any other
7 agency of state government, or any county, city, or other state, and shall not be
8 inspected intentionally and without authorization by any present secretary or
9 employee of the Finance and Administration Cabinet, commissioner or employee of
10 the department~~[of Revenue]~~, or any other person.
- 11 (5) Statistics of crude oil as reported to the department~~[of Revenue]~~ under the crude oil
12 excise tax requirements of KRS Chapter 137 and statistics of natural gas production
13 as reported to the department~~[of Revenue]~~ under the natural resources severance
14 tax requirements of KRS Chapter 143A may be made public by the department by
15 release to the 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 (7) Notwithstanding any other provision of the Kentucky Revised Statutes, the
26 department may divulge to the applicable school districts on a confidential basis any
27 utility gross receipts license tax return information that is necessary to administer

1 the provisions of KRS 160.613 to 160.617.

2 (8) (a) For the purposes of carrying out the systematic reviews required by Section
3 19 of this Act, the staff of the Legislative Research Commission shall have
4 access to confidential data to perform research for the systematic review.

5 (b) The Legislative Research Commission shall limit the Legislative Research
6 Commission staff who shall have access to confidential data to those whose
7 duties and responsibilities involve the review and analysis of data. The
8 Legislative Research Commission shall provide a list of these staff members
9 to the department at the time the data is requested and shall update the list
10 as necessary when staff members with access change.

11 (c) Access to information provided to the staff of the Legislative Research
12 Commission pursuant to this subsection shall not extend to members of the
13 General Assembly. While staff of the Legislative Research Commission may
14 share summary analysis and research resulting from the information and
15 data provided pursuant to this subsection that are required by law to be
16 confidential, the unsummarized confidential data and information that
17 could identify an individual taxpayer or company shall not be shared with
18 members of the General Assembly by staff of the Legislative Research
19 Commission.

20 (d) As provided by KRS 131.990(2)(a) and (b), the staff of the Legislative
21 Research Commission shall be subject to penalties for improper browsing
22 or dissemination of confidential information.

23 (e) The staff of the Legislative Research Commission shall not have access to
24 information received by the department from the Internal Revenue Service.

25 ➔Section 21. KRS 138.270 is amended to read as follows:

26 (1) (a) From the total number of gallons of gasoline and special fuel received by the
27 dealer within this state during the next preceding calendar month, deductions

1 shall be made for the total number of gallons received by the dealer within this
2 state that were sold or otherwise disposed of during the next preceding
3 calendar month as set forth in subsection (2) of KRS 138.240.

4 (b) To cover evaporation, shrinkage, unaccountable losses, collection costs, bad
5 debts, and handling and reporting the tax, each dealer shall be allowed
6 compensation equal to **one percent (1%)**~~[two and one-fourth percent (2.25%)]~~
7 of the net tax due the Commonwealth pursuant to KRS 138.210 to 138.490
8 before all allowable tax credits, except the credit authorized pursuant to KRS
9 138.358. No compensation shall be allowed if the completed tax return and
10 payment are not submitted to the department within the time prescribed by
11 KRS 138.210 to 138.490.

12 (2) The tax imposed by KRS 138.220(1) and (2) shall be computed on the number of
13 gallons remaining after the deductions set forth in subsection (1) of this section
14 have been made, and shall constitute the amount of tax payable for the next
15 preceding calendar month.

16 (3) Notwithstanding any other provision of this chapter to the contrary, any person who
17 shall remit to the department, by the twenty-fifth day of the next month, an
18 estimated tax due amount equal to not less than ninety-five percent (95%) of his tax
19 liability, as finally determined for the report month, shall not be required to file the
20 monthly reports required by this chapter until the last day of the month following
21 the report month, and shall be permitted to claim as a credit against the tax liability
22 shown due on the report the estimated tax due amount so paid.

23 ➔Section 22. KRS 132.020 is amended to read as follows:

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

26 (a) **Twelve and two-tenths cents (\$0.122)**~~[Thirty-one and one-half cents (\$0.315)]~~
27 upon each one hundred dollars (\$100) of value of all real property directed to

1 be assessed for taxation;

2 (b) Twenty-five cents (\$0.25) upon each one hundred dollars (\$100) of value of
3 motor vehicles qualifying for permanent registration as historic motor
4 vehicles under the provisions of KRS 186.043;

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

6 1. All machinery actually engaged in manufacturing;

7 2. All commercial radio and television equipment used to receive,
8 capture, produce, edit, enhance, modify, process, store, convey, or
9 transmit audio or video content or electronic signals which are
10 broadcast over the air to an antenna, including radio and television
11 towers used to transmit or facilitate the transmission of the signal
12 broadcast and equipment used to gather or transmit weather
13 information, but excluding telephone and cellular communication
14 towers; and

15 3. Tangible personal property which has been certified as a pollution
16 control facility as defined in KRS 224.01-300;

17 (d) Ten cents (\$0.10) upon each one hundred dollars (\$100) of value of the
18 operating property of railroads or railway companies that operate solely
19 within the Commonwealth;

20 (e) Five cents (\$0.05) upon each one hundred dollars (\$100) of value of goods
21 held for sale in the regular course of business, which includes:

22 1. Machinery and equipment held in a retailer's inventory for sale or
23 lease originating under a floor plan financing arrangement;

24 2. Motor vehicles:

25 a. Held for sale in the inventory of a licensed motor vehicle dealer,
26 including licensed motor vehicle auction dealers, which are not
27 currently titled and registered in Kentucky and are held on an

assignment pursuant to KRS 186A.230; or

b. That are in the possession of a licensed motor vehicle dealer,
including licensed motor vehicle auction dealers, for sale,
although ownership has not been transferred to the dealer;

3. Raw materials, which includes distilled spirits and distilled spirits
inventory; and

4. In-process materials, which includes distilled spirits and distilled
spirits inventory, held for incorporation in finished goods held for sale
in the regular course of business;

(f) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of
value of;

1. All privately owned leasehold interests in industrial buildings, as defined
under KRS 103.200, owned and financed by a tax-exempt governmental
unit, or tax-exempt statutory authority under the provisions of KRS
Chapter 103, upon the prior approval of the Kentucky Economic
Development Finance Authority, except that the rate shall not apply to
the proportion of value of the leasehold interest created through any
private financing;

2. [(c)] ~~One and one-half cents (\$0.015) upon each one hundred dollars~~
~~(\$100) of value of~~ All qualifying voluntary environmental remediation
property, provided the property owner has corrected the effect of all
known releases of hazardous substances, pollutants, contaminants,
petroleum, or petroleum products located on the property consistent with
a corrective action plan approved by the Energy and Environment
Cabinet pursuant to KRS 224.1-400, 224.1-405, or 224.60-135, and
provided the cleanup was not financed through a public grant or the
petroleum storage tank environmental assurance fund. This rate shall

1 apply for a period of three (3) years following the Energy and
 2 Environment Cabinet's issuance of a No Further Action Letter or its
 3 equivalent, after which the regular tax rate shall apply;

4 ~~3.[(d)] [One and one half cents (\$0.015) upon each one hundred dollars~~
 5 ~~(\$100) of value of]~~All tobacco directed to be assessed for taxation;

6 ~~4.[(e)] [One and one half cents (\$0.015) upon each one hundred dollars~~
 7 ~~(\$100) of value of]~~Unmanufactured agricultural products;

8 **5. Aircraft not used in the business of transporting persons or property**
 9 **for compensation or hire; and**

10 **6. Federally documented vessels not used in the business of transporting**
 11 **persons or property for compensation or hire, or for other commercial**
 12 **purposes;**

13 ~~(g) [(f)]~~ One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of
 14 value of;

15 **1.** All farm implements and farm machinery owned by or leased to a person
 16 actually engaged in farming and used in his farm operations;

17 ~~2.[(g)] [One-tenth of one cent (\$0.001) upon each one hundred dollars~~
 18 ~~(\$100) of value of]~~All livestock and domestic fowl;

19 ~~3.[(h)] [One-tenth of one cent (\$0.001) upon each one hundred dollars~~
 20 ~~(\$100) of value of]~~All tangible personal property located in a foreign
 21 trade zone established pursuant to 19 U.S.C. sec. 81, provided that the
 22 zone is activated in accordance with the regulations of the United States
 23 Customs Service and the Foreign Trade Zones Board; **and**

24 ~~[(i)] Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all~~
 25 ~~machinery actually engaged in manufacturing;~~

26 ~~(j) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all~~
 27 ~~commercial radio and television equipment used to receive, capture, produce,~~

1 ~~edit, enhance, modify, process, store, convey, or transmit audio or video~~
2 ~~content or electronic signals which are broadcast over the air to an antenna,~~
3 ~~including radio and television towers used to transmit or facilitate the~~
4 ~~transmission of the signal broadcast and equipment used to gather or transmit~~
5 ~~weather information, but excluding telephone and cellular communication~~
6 ~~towers;~~

7 ~~(k) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all~~
8 ~~tangible personal property which has been certified as a pollution control~~
9 ~~facility as defined in KRS 224.1 300. In the case of tangible personal property~~
10 ~~certified as a pollution control facility which is incorporated into a landfill~~
11 ~~facility, the tangible personal property shall be presumed to remain tangible~~
12 ~~personal property for purposes of this paragraph if the tangible personal~~
13 ~~property is being used for its intended purposes;}~~

14 ~~4.[(1)] [One-tenth of one cent (\$0.001) upon each one hundred dollars~~
15 ~~(\$100) of value of]All property which has been certified as an alcohol~~
16 ~~production facility as defined in KRS 247.910, or as a fluidized bed~~
17 ~~energy production facility as defined in KRS 211.390;{~~

18 ~~(m) Twenty-five cents (\$0.25) upon each one hundred dollars (\$100) of value of~~
19 ~~motor vehicles qualifying for permanent registration as historic motor vehicles~~
20 ~~under the provisions of KRS 186.043;~~

21 ~~(n) Five cents (\$0.05) upon each one hundred dollars (\$100) of value of goods~~
22 ~~held for sale in the regular course of business, which includes:~~

23 ~~1. Machinery and equipment held in a retailer's inventory for sale or lease~~
24 ~~originating under a floor plan financing arrangement;~~

25 ~~2. Motor vehicles:~~

26 ~~a. Held for sale in the inventory of a licensed motor vehicle dealer,~~
27 ~~including licensed motor vehicle auction dealers, which are not~~

- 1 ~~currently titled and registered in Kentucky and are held on an~~
2 ~~assignment pursuant to the provisions of KRS 186A.230; or~~
- 3 ~~b. That are in the possession of a licensed motor vehicle dealer,~~
4 ~~including licensed motor vehicle auction dealers, for sale, although~~
5 ~~ownership has not been transferred to the dealer;~~
- 6 ~~3. Raw materials, which includes distilled spirits and distilled spirits~~
7 ~~inventory; and~~
- 8 ~~4. In process materials, which includes distilled spirits and distilled spirits~~
9 ~~inventory, held for incorporation in finished goods held for sale in the~~
10 ~~regular course of business;~~
- 11 ~~(e) Ten cents (\$0.10) per one hundred dollars (\$100) of assessed value on the~~
12 ~~operating property of railroads or railway companies that operate solely within~~
13 ~~the Commonwealth;~~
- 14 ~~(p) One and one half cents (\$0.015) per one hundred dollars (\$100) of assessed~~
15 ~~value on aircraft not used in the business of transporting persons or property~~
16 ~~for compensation or hire;~~
- 17 ~~(q) One and one half cents (\$0.015) per one hundred dollars (\$100) of assessed~~
18 ~~value on federally documented vessels not used in the business of transporting~~
19 ~~persons or property for compensation or hire, or for other commercial~~
20 ~~purposes;}~~ and
- 21 (h)~~(r)}~~ Forty-five cents (\$0.45) upon each one hundred dollars (\$100) of value
22 of all other property directed to be assessed for taxation shall be paid by the
23 owner or person assessed, except as provided in KRS 132.030, 132.200,
24 136.300, and 136.320, providing a different tax rate for particular property.
- 25 (2) ~~[Notwithstanding subsection (1)(a) of this section, the state tax rate on real property~~
26 ~~shall be reduced to compensate for any increase in the aggregate assessed value of~~
27 ~~real property to the extent that the increase exceeds the preceding year's assessment~~

1 by more than four percent (4%), excluding:

2 ~~(a) — The assessment of new property as defined in KRS 132.010(8);~~

3 ~~(b) — The assessment from property which is subject to tax increment financing pursuant~~
4 ~~to KRS Chapter 65; and~~

5 ~~(c) — The assessment from leasehold property which is owned and financed by a tax-~~
6 ~~exempt governmental unit, or tax exempt statutory authority under the provisions of~~
7 ~~KRS Chapter 103 and entitled to the reduced rate of one and one half cents (\$0.015)~~
8 ~~pursuant to subsection (1)(b) of this section. In any year in which the aggregate~~
9 ~~assessed value of real property is less than the preceding year, the state rate shall be~~
10 ~~increased to the extent necessary to produce the approximate amount of revenue~~
11 ~~that was produced in the preceding year from real property.~~

12 ~~(3) — By July 1 each year, the department shall compute the state tax rate applicable to~~
13 ~~real property for the current year in accordance with the provisions of subsection (2)~~
14 ~~of this section and certify the rate to the county clerks for their use in preparing the~~
15 ~~tax bills. If the assessments for all counties have not been certified by July 1, the~~
16 ~~department shall, when either real property assessments of at least seventy-five~~
17 ~~percent (75%) of the total number of counties of the Commonwealth have been~~
18 ~~determined to be acceptable by the department, or when the number of counties~~
19 ~~having at least seventy-five percent (75%) of the total real property assessment for~~
20 ~~the previous year have been determined to be acceptable by the department, make~~
21 ~~an estimate of the real property assessments of the uncertified counties and compute~~
22 ~~the state tax rate.~~

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

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

27 ~~(b) — The revenue from property which is subject to tax increment financing pursuant to~~

1 ~~KRS Chapter 65; and~~

2 ~~(c) The revenue from leasehold property which is owned and financed by a tax-exempt~~
3 ~~governmental unit, or tax-exempt statutory authority under the provisions of KRS~~
4 ~~Chapter 103 and entitled to the reduced rate of one and one-half cents (\$.015)~~
5 ~~pursuant to subsection (1) of this section;~~

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

8 ~~(5) The provisions of subsection (2) of this section notwithstanding, the assessed value~~
9 ~~of unmined coal certified by the department after July 1, 1994, shall not be included~~
10 ~~with the assessed value of other real property in determining the state real property~~
11 ~~tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also~~
12 ~~be excluded from the provisions of subsection (2) of this section.]The state real~~
13 ~~property tax~~~~[calculated]~~ rate levied under subsection (1)(a) of this section shall~~;~~
14 ~~however,~~ be applied to unmined coal property, and the ~~state~~ revenue shall be
15 devoted to the program described in KRS 146.550 to 146.570, except that four
16 hundred thousand dollars (\$400,000) of the ~~state~~ revenue shall be paid annually to
17 the State Treasury and credited to the Department for Energy Development and
18 Independence for the purpose of public education of coal-related issues.

19 ➔Section 23. KRS 132.260 is amended to read as follows:

20 (1) Every person providing rental space for:

21 (a) The parking of:

22 1. Aircraft;

23 2. Manufactured homes;

24 3. Mobile homes; and

25 4. Recreational vehicles not registered in this state under KRS 186.655;

26 or

27 (b) The docking or storage of boats, including federally documented vessels;

shall by February 1 of each year file with the property valuation administrator of the county where the property is located a report listing the property located on his or her premises on the prior January 1.

(2) (a) For manufactured homes,~~[name of the owner and type and size of all]~~ mobile homes, and recreational vehicles, the report shall include the name and address of the owner and the type and size of the manufactured home, mobile home, or recreational vehicle.

(b) For aircraft, the report shall include the name and address of the owner and the make, model, year, and tail number of the aircraft.

(c) For boats, including federally documented vessels, the report shall include the name and address of the owner and the name, port of call, width, and length of the vessel~~[not registered in this state under KRS 186.655 on his premises on the prior January 1 to the property valuation administrator of the county in which the property is located].~~

(3) The report shall be made in accordance with forms prescribed by the department~~[of Revenue]~~ and shall be signed and verified by the chief officer or person in charge of the business. The property valuation administrator may make a personal inspection and investigation of the premises on which manufactured homes, mobile homes,~~[and]~~ recreational vehicles, aircraft, or boats, including federally documented vessels, are located, for the purpose of identifying and assessing such property. No person in charge of such premises shall refuse to permit the inspection and investigation.

➔Section 24. KRS 132.730 is amended to read as follows:

All manufactured homes, mobile homes, and recreational vehicles which are within this state on January 1 each year shall be subject to all ad valorem tax levies applicable to other property subject to full state and local rates, except that any manufactured home, mobile home, or~~[and]~~ recreational vehicle not licensed in this state and not remaining

1 within this state for a period of more than ninety (90) days in any twelve (12) month
2 period shall not have a taxable situs in this state unless an occupant is employed in this
3 state.

4 ➔Section 25. KRS 132.751 is amended to read as follows:

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

6 **(a) "Permanent, fixed foundation" means a foundation permanent in nature**
7 **which is so constructed as to be fixed upon the surface of the land; and**

8 **(b) "Unit" means any single mobile home, manufactured home, or**
9 **recreational vehicle.**

10 **(2)** Mobile homes or manufactured homes not held for resale by a dealer shall be
11 classified as real property for the purpose of the levy and assessment of ad valorem
12 taxes, regardless of whether or not the wheels or mobile parts have been removed
13 and whether or not the unit rests on a permanent, fixed foundation.

14 **(3)**~~**(2)**~~ Recreational vehicles shall be classified as real property if the wheels or
15 mobile parts have been removed and the unit rests on a permanent, fixed
16 foundation.

17 ➔Section 26. KRS 132.810 is amended to read as follows:

18 (1) To qualify under the homestead exemption provision of the Constitution, each
19 person claiming the exemption shall file an application with the property valuation
20 administrator of the county in which the applicant resides, on forms prescribed by
21 the department. The assessed value of property on which homestead exemption is
22 claimed shall not be increased because of valuation expressed on the application
23 form filed with the property valuation administrator, and whenever it becomes
24 known that the valuation of property subject to the homestead tax exemption has
25 been increased because of valuation expressed on the application form, adjustment
26 shall be made the following year so that the total tax paid by the taxpayer is the
27 same as if the increase had not been made.

- 1 (2) (a) Every person filing an application for exemption under the homestead
2 exemption provision must be sixty-five (65) years of age or older during the
3 year for which application is made or must have been classified as totally
4 disabled under a program authorized or administered by an agency of the
5 United States government or by any retirement system either within or without
6 the Commonwealth of Kentucky on January 1 of the year in which application
7 is made.
- 8 (b) Every person filing an application for exemption under the homestead
9 exemption provision must own and maintain the property for which the
10 exemption is sought as his personal residence.
- 11 (c) Every person filing an application for exemption under the disability provision
12 of the homestead exemption must have received disability payments pursuant
13 to the disability and must maintain the disability classification for the entirety
14 of the particular taxation period.
- 15 (d) 1. Every person filing for the homestead exemption who is totally disabled
16 and is less than sixty-five (65) years of age must apply for the homestead
17 exemption on an annual basis, except as provided by subparagraph 2. of
18 this paragraph.
- 19 2. a. A service-connected totally disabled veteran of the United States
20 Armed Forces; or
- 21 b. A totally and permanently disabled individual found disabled
22 under:
- 23 i. The applicable rules of the Social Security Administration;
24 ii. The applicable rules of the Kentucky Retirement Systems; or
25 iii. Any other provision of the Kentucky Revised Statutes;
- 26 shall document the disability at the time of application for the homestead
27 exemption and shall not be required to apply for the homestead

1 exemption on an annual basis.

2 (e) 1. Only one (1) exemption per residential unit shall be allowed even
3 though the resident may be sixty-five (65) years of age and also totally
4 disabled, and regardless of the number of residents sixty-five (65) years
5 of age or older occupying the unit.

6 2. The sixty-five hundred dollars (\$6,500) exemption provided in Section
7 170 of the Constitution of Kentucky shall be construed to mean sixty-
8 five hundred dollars (\$6,500) in terms of the purchasing power of the
9 dollar in 1972.

10 3. Every two (2) years thereafter, if the cost of living index of the United
11 States Department of Labor has changed as much as one percent (1%),
12 the maximum exemption shall be adjusted accordingly.

13 (f) The real property may be held by legal or equitable title, by the entireties,
14 jointly, in common, as a condominium, or indirectly by the stock ownership or
15 membership representing the owner's or member's proprietary interest in a
16 corporation owning a fee or a leasehold initially in excess of ninety-eight (98)
17 years. The exemption shall apply only to the value of the real property
18 assessable to the owner or, in case of ownership through stock or membership
19 in a corporation, the value of the proportion which his interest in the
20 corporation bears to the assessed value of the property.

21 (g) A manufactured home, mobile home, or recreational vehicle, when classified
22 as real property as provided for in KRS 132.751, ~~or a manufactured house~~
23 shall qualify as a residential unit for purposes of the homestead exemption
24 provision.

25 (h) When title to property which is exempted, either in whole or in part, under the
26 homestead exemption is transferred, the owner, administrator, executor,
27 trustee, guardian, conservator, curator, or agent shall report such transfer to

1 the property valuation administrator.

2 (3) Notwithstanding any statutory provisions to the contrary, the provisions of this
3 section shall apply to the assessment and taxation of property under the homestead
4 exemption provision for state, county, city, or special district purposes.

5 (4) (a) The homestead exemption for disabled persons shall terminate whenever
6 those persons no longer meet the total disability classification at the end of the
7 taxation period for which the homestead exemption has been granted. In no
8 case shall the exemption be prorated for persons who maintained the total
9 disability classification at the end of the taxation period.

10 (b) Any totally disabled person granted the homestead exemption under the
11 disability provision shall report any change in disability classification to the
12 property valuation administrator in the county in which the homestead
13 exemption is authorized.

14 (c) Any person making application and qualifying for the homestead exemption
15 before payment of his property tax bills for the year in question shall be
16 entitled to a full or partial exoneration, as the case may be, of the property tax
17 due to reflect the taxable assessment after allowance for the homestead
18 exemption.

19 (d) Any person making application and qualifying for the homestead exemption
20 after property tax bills have been paid shall be entitled to a refund of the
21 property taxes applicable to the value of the homestead exemption.

22 (5) In this section, "taxation period" means the period from January 1 through
23 December 31 of the year in which application is made, unless the person
24 maintaining the classification dies before December 31, in which case "taxation
25 period" means the period from January 1 to the date of death.

26 ➔Section 27. KRS 132.815 is amended to read as follows:

27 (1) Each electrical inspector certified under KRS 227.489 shall submit a monthly report

1 to the Department of Revenue showing the names and addresses of all persons,
2 firms, or corporations for which inspections were conducted for new buildings, new
3 or relocated manufactured homes or mobile homes, and other new or relocated
4 structures during the preceding month. Each building, manufactured home, mobile
5 home, or other structure shall be identified by county and property address, or
6 property location in those instances where the address is insufficient to reveal the
7 physical location of the property.

- 8 (2) The information provided shall be used for the purpose of making and maintaining
9 accurate assessment records. The Department of Revenue shall provide to each
10 electrical inspector the necessary forms and instructions for filing the report
11 required under subsection (1) of this section.

12 ➔Section 28. KRS 140.300 is amended to read as follows:

13 As used in KRS 140.300~~[140.310]~~ to 140.360~~[, these words shall have the following~~
14 ~~meaning]~~:

- 15 (1) "Agricultural land" has the same meaning as in KRS 132.010;~~[means that real~~
16 ~~estate which is defined in KRS 132.010(9).]~~

- 17 (2) "Agricultural or horticultural value" has the same meaning as in KRS 132.010;

- 18 (3) "Horticultural land" has the same meaning as in KRS 132.010;~~[means that real~~
19 ~~estate which is defined in KRS 132.010(10).~~

- 20 ~~(3) "Agricultural or horticultural value" means the value as defined in KRS~~
21 ~~132.010(11).]~~

- 22 (4) "Qualified person" means a person who proposes to devote the real property to
23 agricultural or horticultural purposes for at least five (5) years after the death of
24 the decedent in whose estate the agricultural or horticultural land is subject to
25 assessment and who is:

26 (a) The spouse of a deceased owner of agricultural or horticultural land;

27 (b) The child, adopted child, or stepchild of the deceased owner; or

1 (c) The spouse or issue of that deceased owner's child, adopted child, or
2 stepchild; and

3 (5) "Qualified real estate" means real property which:

- 4 (a) Is either horticultural or agricultural land;
- 5 (b) Has been used for agricultural or horticultural purposes for five (5) years prior
- 6 to the death of the owner of the real estate or a joint owner thereof; and
- 7 (c) Fair cash value exceeds fifty percent (50%) of the gross taxable estate of
- 8 decedent for Kentucky inheritance tax purposes.

9 ~~[(5) "Qualified person" means the spouse of a deceased owner of agricultural or~~
10 ~~horticultural land; the children, adopted children, and stepchildren of that deceased~~
11 ~~owner; the spouses and issue of that deceased owner's children, adopted children,~~
12 ~~and stepchildren, and is a person who proposes to devote the real property to~~
13 ~~agricultural or horticultural purposes for at least five (5) years after the death of the~~
14 ~~decedent in whose estate the agricultural or horticultural land is subject to~~
15 ~~assessment.]~~

16 ➔Section 29. KRS 279.200 is amended to read as follows:

17 Corporations formed under this chapter shall be exempt from all profit taxes, gross and

18 net taxes, sales taxes, occupation taxes, privilege taxes, income taxes, taxes on electric

19 current consumed and from all excise taxes whatsoever, any statute now existing or

20 hereafter passed to the contrary notwithstanding.~~[In lieu of all other state, county, city~~

21 ~~and district taxes, except ad valorem and franchise taxes, corporations formed under this~~

22 ~~chapter shall pay to the State Treasurer an annual tax of ten dollars (\$10).]~~

23 ➔Section 30. KRS 279.530 is amended to read as follows:

24 Corporations formed under KRS 279.310 to 279.600 shall be exempt from all profit

25 taxes, gross and net taxes, sales taxes, occupation taxes, privilege taxes, income taxes,

26 taxes on telephone service and from all excise taxes whatsoever, any statute now existing

27 or hereafter passed to the contrary notwithstanding.~~[In lieu of all other state, county, city~~

1 ~~and district taxes, except ad valorem and franchise taxes, corporations formed under KRS~~
2 ~~279.310 to 279.600 shall pay to the State Treasurer an annual tax of ten dollars (\$10).]~~

3 ➔Section 31. KRS 279.220 is amended to read as follows:

4 (1) Any rural electric cooperative corporation organized under a law of any state
5 contiguous to this state, which law is substantially similar to the law under which
6 such corporations may be organized in this state, may extend its operations into this
7 state for a distance not exceeding three (3) miles from the boundary between that
8 state and this state, and such extension shall not be considered doing business in
9 this state within the meaning of the statutes regulating or taxing foreign
10 corporations doing business in this state. Such corporation shall be entitled to the
11 same exemptions granted to~~], and shall pay the same tax required of,]~~ domestic
12 corporations under KRS 279.200.

13 (2) The operations of such corporation within this state shall be subject to the
14 supervision of the Public Service Commission, and the commission may take the
15 necessary action to require the corporation to furnish adequate service at reasonable
16 rates. If the corporation fails to comply with the regulations and requirements of the
17 commission it shall forfeit the privilege granted by this section.

18 (3) The privilege granted by this section shall be effective for a period of five (5) years
19 from June 12, 1940, at which date it shall expire, unless the contiguous state grants
20 a similar privilege to rural electric cooperative corporations incorporated in this
21 state, in which case it shall continue so long as the contiguous state continues to
22 grant the same privilege.

23 (4) A rural electric cooperative corporation organized under a law of any state other
24 than Kentucky not satisfying the exemptions set forth in subsections (1), (2) and (3)
25 of this section is subject to KRS 14A.9-010.

26 ➔Section 32. KRS 139.530 is amended to read as follows:

27 The taxes imposed by this chapter shall be in addition to any excise, license, privilege or

1 other tax imposed under existing provisions of the Kentucky Revised Statutes~~[, including~~
2 ~~KRS 279.200 and 279.530]~~.

3 ➔Section 33. KRS 132.097 is amended to read as follows:

4 There shall be exempt from ad valorem tax for state purposes, personal property placed in
5 a warehouse or distribution center for the purpose of subsequent shipment to an out-of-
6 state destination. Personal property shall be deemed to be held for shipment to an out-of-
7 state destination if the owner can reasonably demonstrate that the personal property will
8 be permanently shipped out of state within the next six (6) months.

9 ➔Section 34. KRS 132.099 is amended to read as follows:

10 (1) The tax rate levied by cities, counties, charter counties, urban-counties, and school
11 districts on personal property placed in a warehouse or distribution center for the
12 purpose of subsequent shipment to an out-of-state destination shall be as follows:

13 (a) Eighty percent (80%) of the tax rate levied on other tangible personal property
14 for tax assessments made on January 1, 2000; and

15 (b) Fifty percent (50%) of the tax rate levied on other tangible personal property
16 for tax assessments made on January 1, 2001.

17 (2) Personal property placed in a warehouse or distribution center for the purpose of
18 subsequent shipment to an out-of-state destination shall be exempt from the ad
19 valorem tax levied by cities, counties, charter counties, urban-counties, and school
20 districts for tax assessments made on or after January 1, 2002.

21 (3) Any fire district or other special taxing district may exempt from the ad valorem tax
22 personal property placed in a warehouse or distribution center for the purpose of
23 subsequent shipment to an out-of-state destination.

24 (4) (a) As used in this subsection:

25 1. "Affiliate" means a partnership, limited liability entity, corporation, or
26 any other business entity that directly or indirectly owns or controls, or is
27 owned or controlled by, or is under common ownership or control with,

- 1 another partnership, limited liability entity, corporation, or other
2 business entity;
- 3 2. "Drug" means a compound, substance, or preparation and any
4 component of a compound, substance, or preparation that is recognized
5 in the official United States Pharmacopoeia, official Homeopathic
6 Pharmacopoeia of the United States, or official National Formulary, or a
7 supplement to any of them, or is:
- 8 a. Intended for use in the diagnosis, cure, mitigation, treatment, or
9 prevention of disease in humans; or
- 10 b. Intended to affect the structure or any function of the human body;
11 and
- 12 3. "Pharmaceutical manufacturer" means any entity which is engaged in the
13 production, preparation, propagation, compounding, conversion, or
14 processing of drug products, either directly or indirectly by extraction
15 from substances of natural origin, or independently by means of
16 chemical synthesis, or by a combination of extraction and chemical
17 synthesis; but does not include a drug wholesaler or a retail pharmacy.
- 18 (b) For assessments made on and after January 1, 2012, the maximum ad valorem
19 tax rate that may be levied by any special taxing district on drugs held by a
20 pharmaceutical manufacturer or by an affiliate of a pharmaceutical
21 manufacturer in a warehouse or distribution center for the purpose of
22 subsequent shipment to an out-of-state destination shall not exceed three cents
23 (\$0.03) upon each one hundred dollars (\$100) of value. This subsection shall
24 not apply to any fire district.
- 25 (5) For the purpose of this section, personal property shall be deemed to be held for
26 shipment to an out-of-state destination if the owner can reasonably demonstrate that
27 the personal property will be permanently shipped out of state within the next six

1 (6) months.

2 ➔Section 35. KRS 139.105 is amended to read as follows:

3 (1) (a) For purposes of the retailer's obligation to pay or collect and remit the taxes
4 imposed by KRS 65.7634, 139.200, and 139.310, the retailer shall source
5 retail sales not addressed in subsections (2), (3), and (4) of this section as
6 follows:

7 1. Over the counter. When the purchaser receives tangible personal
8 property, digital property, or service at a business location of the retailer,
9 the sale is sourced to that business location;

10 2. Delivery to a specified address. When a purchaser or purchaser's
11 ~~donee~~~~[done]~~ receives tangible personal property, digital property, or
12 service at a location specified by the purchaser, the sale is sourced to
13 that location; or

14 3. Address unknown. When the retailer of a product does not know the
15 address where the tangible personal property, digital property, or service
16 is received, the sale is sourced to the first address listed in this paragraph
17 that is known to the retailer:

18 a. The address of the purchaser;

19 b. The billing address of the purchaser;

20 c. The address of the purchaser's payment instrument; or

21 d. The address from which the tangible personal property was
22 shipped; from which the computer software delivered
23 electronically or the digital property transferred electronically was
24 first available for transmission by the retailer; or from which the
25 service was provided, disregarding for these purposes any location
26 that merely provided the actual digital transfer of the product sold.

27 (b) Nothing included in this subsection shall affect the obligation of a purchaser

1 to remit use tax pursuant to KRS 139.310.

2 **(c) For purposes of this subsection:**

3 **1. "Receive" means:**

4 **a. Taking possession of tangible personal property;**

5 **b. Making first use of services; or**

6 **c. Taking possession or making first use of digital property,**

7 **whichever comes first; but**

8 **2. "Receive" does not mean possession by a shipping company on behalf**
9 **of the purchaser.**

10 (2) The retailer shall source communications services as follows:

11 (a) A sale of mobile telecommunications services, other than air-ground
12 radiotelephone service and prepaid wireless calling service, shall be sourced to
13 the customer's or other purchaser's place of primary use;

14 (b) A sale of postpaid calling service shall be sourced to the origination point of
15 the telecommunications signal as first identified by either the retailer's
16 telecommunications system or information received by the retailer from its
17 service provider, where the system used to transport the signals is not that of
18 the retailer;

19 (c) A sale of prepaid calling service or a sale of a prepaid wireless calling service
20 shall be sourced according to the provisions of subsection (1) of this section.
21 If the sale is of a prepaid wireless calling service and the retailer does not
22 know the address where the service is received, the sale shall be sourced to the
23 first of the following that is known by the retailer:

- 24 1. The address of the customer available from the business records of the
25 retailer;
26 2. The billing address of the customer;
27 3. The address from which the service was provided; or

- 1 4. The location associated with the mobile telephone number;
- 2 (d) A sale of a private communications service shall be sourced as follows:
- 3 1. Service for a separate charge related to a customer channel termination
- 4 point shall be sourced to each level of jurisdiction in which the customer
- 5 channel termination point is located.
- 6 2. Service where all customer termination points are located entirely within
- 7 one (1) jurisdiction or levels of jurisdiction is sourced in the jurisdiction
- 8 in which the customer channel termination points are located.
- 9 3. Service for segments of a channel between two (2) customer channel
- 10 termination points located in different jurisdictions and which segments
- 11 of channel are separately charged shall be sourced fifty percent (50%) in
- 12 each level of jurisdiction in which the customer channel termination
- 13 points are located.
- 14 4. Service for segments of a channel located in more than one (1)
- 15 jurisdiction or levels of jurisdiction and which segments are not
- 16 separately billed shall be sourced in each jurisdiction based on the
- 17 percentage determined by dividing the number of customer channel
- 18 termination points in the jurisdiction by the total number of customer
- 19 channel termination points;
- 20 (e) A sale of an ancillary service is sourced to the customer's place of primary
- 21 use; and
- 22 (f) A sale of other communications services:
- 23 1. Sold on a call-by-call basis shall be sourced based on the taxing
- 24 jurisdiction where the call either originates or terminates and in which
- 25 the service address is also located; or
- 26 2. Sold on a basis other than a call-by-call basis shall be sourced to the
- 27 customer's or other purchaser's place of primary use.

1 (3) Florist wire sales shall be sourced in accordance with an administrative regulation
2 promulgated by the department.

3 (4) Advertising and promotional direct mail and other direct mail shall be sourced as
4 provided in KRS 139.777.

5 ➔Section 36. KRS 139.200 is amended to read as follows:

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

8 (1) Retail sales of:

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

11 (b) Digital property regardless of whether:

12 1. The purchaser has the right to permanently use the property;

13 2. The purchaser's right to access or retain the property is not permanent; or

14 3. The purchaser's right of use is conditioned upon continued payment; and

15 (2) The furnishing of the following:

16 (a) ~~{The rental of }~~Any room or rooms, lodgings, or accommodations furnished
17 by any hotel, motel, inn, tourist camp, tourist cabin, or any other place in
18 which rooms, lodgings, or accommodations are regularly furnished to
19 transients for a consideration. The tax shall not apply to rooms, lodgings, or
20 accommodations supplied for a continuous period of thirty (30) days or more
21 to a person;

22 (b) Sewer services;

23 (c) The sale of admissions, including private golf club or private country club
24 golf course greens fees and membership fees. For the purposes of this
25 paragraph, "private golf club or private country club" means any golf club
26 or country club that requires membership in the golf club or country club,
27 or a reciprocal membership in another golf club or country club, to utilize

1 ~~any portion of its facility or function. The tax shall not apply to admissions~~
2 ~~except those~~ taxed under KRS 138.480;

3 (d) Prepaid calling service and prepaid wireless calling service;

4 (e) Intrastate, interstate, and international communications services as defined in
5 KRS 139.195, except the furnishing of pay telephone service as defined in
6 KRS 139.195;~~and~~

7 (f) Distribution, transmission, or transportation services for natural gas that is for
8 storage, use, or other consumption in this state, excluding those services
9 furnished:

10 1. For natural gas that is classified as residential use as provided in KRS
11 139.470(8); or

12 2. To a seller or reseller of natural gas;

13 (g) Janitorial services, including carpet, upholstery, and window cleaning;

14 (h) Garment alteration and garment repair services;

15 (i) Non-coin-operated laundry and dry-cleaning services;

16 (j) Armored car services;

17 (k) Security services;

18 (l) Exterminating and pest-control services;

19 (m) Landscaping services, excluding lawn-care services;

20 (n) Non-coin-operated vehicle washing and waxing services;

21 (o) Commercial linen services, excluding:

22 1. Commercial uniform services; and

23 2. Commercial linen services provided to hospitals and nursing homes;

24 and

25 (p) Limousine services if a driver is included.

26 ➔Section 37. KRS 139.220 is amended to read as follows:

27 It is unlawful for any retailer to advertise or hold out or state to the public or to any

customer, directly or indirectly, that the tax levied by KRS 139.200 or required to be collected under KRS 139.340 or any part thereof will be assumed or absorbed by the retailer or that the tax will not be added to the sales~~[selling]~~ price~~[- of the tangible personal property or digital property sold]~~ or that if added the tax or any part thereof will be refunded.

➔Section 38. KRS 139.270 is amended to read as follows:

(1) The resale certificate, certificate of exemption, or Streamlined Sales and Use Tax Agreement Certificate of Exemption relieves the retailer or seller from the burden of proof if the retailer or seller:

(a) Within ninety (90) days after the date of sale:

1. Obtains a fully completed resale certificate, certificate of exemption, or Streamlined Sales and Use Tax Agreement Certificate of Exemption; or
 2. Captures the relevant data elements that correspond to the information that the purchaser would otherwise provide to the retailer or seller on the Streamlined Sales and Use Tax Agreement Certificate of Exemption;
- and

(b) Maintains a file of the certificate obtained or relevant data elements captured in accordance with KRS 139.720.

(2) The relief from liability provided to the retailer or the seller in this section does not apply to a retailer or seller who:

- (a) Fraudulently fails to collect the tax;
- (b) Solicits purchasers to participate in the unlawful claiming of an exemption; or
- (c) Accepts an exemption certificate when the purchaser claims an entity-based exemption when:

1. The **tangible personal property, digital property, or services**~~[product]~~ sought to be covered by the exemption certificate is actually received by the purchaser at a location operated by the retailer or seller; and

1 2. The state in which that location resides provides an exemption
2 certificate that clearly and affirmatively indicates that the claimed
3 exemption is not available in that state.

4 For purposes of this paragraph, "entity-based exemption" means an exemption
5 based on who purchases the tangible personal property, digital property, or
6 services~~[product]~~ or who sells the tangible personal property, digital
7 property, or services~~[product]~~. An exemption available to all individuals shall
8 not be considered an entity-based exemption.

9 (3) (a) If the department requests that the seller or retailer substantiate that the sale
10 was a sale for resale or an exempt sale and the retailer or seller has not
11 complied with subsection (1) of this section, the seller or retailer shall be
12 relieved of any liability for the tax on the transaction if the seller or retailer,
13 within one hundred twenty (120) days of the department's request:

14 1. Obtains a fully completed resale certificate, exemption certificate, or
15 Streamlined Sales and Use Tax Agreement Certificate of Exemption
16 from the purchaser for an exemption that:

17 a. Was available under this chapter on the date the transaction
18 occurred;

19 b. Could be applicable to the item being purchased; and

20 c. Is reasonable for the purchaser's type of business; or

21 2. Obtains other information establishing that the transaction was not
22 subject to the tax.

23 (b) Notwithstanding paragraph (a) of this subsection, if the department discovers
24 through the audit process that the seller or retailer had knowledge or had
25 reason to know at the time the information was provided that the information
26 relating to the exemption claimed was materially false, or the seller or retailer
27 otherwise knowingly participated in activity intended to purposefully evade

1 the tax that is properly due on the transaction, the seller or retailer shall not be
2 relieved of the tax on the transaction. The department shall bear the burden of
3 proof that the seller or retailer had knowledge or had reason to know at the
4 time the information was provided that the information was materially false.

5 (4) Notwithstanding subsections (1) and (3) of this section, the seller or retailer may
6 still offer additional documentation that is acceptable by the department that the
7 transaction is not subject to tax and to relieve the seller or retailer from the tax
8 liability.

9 (5) If the department later finds that the retailer or seller complied with subsections (1),
10 (3), and (4) of this section, but that the purchaser used the tangible personal
11 property or digital property in a manner that would not have qualified for resale
12 status or the purchaser issued a certificate of exemption or a Streamlined Sales and
13 Use Tax Agreement Certificate of Exemption and used the tangible personal
14 property, digital property, or services in some other manner or for some other
15 purpose, the department shall hold the purchaser liable for the remittance of the tax
16 and may apply penalties provided in KRS 139.990.

17 ➔Section 39. KRS 139.340 is amended to read as follows:

18 (1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business
19 in this state shall collect the tax imposed by KRS 139.310 from the purchaser and
20 give to the purchaser a receipt therefor in the manner and form prescribed by the
21 department. The taxes collected or required to be collected by the retailer under this
22 section shall be deemed to be held in trust for and on account of the
23 Commonwealth.

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

26 (a) Any retailer maintaining, occupying, or using, permanently or temporarily,
27 directly or indirectly, or through a subsidiary or any other related entity,

1 representative, or agent, by whatever name called, an office, place of
2 distribution, sales or sample room or place, warehouse or storage place, or
3 other place of business. Property owned by a person who has contracted with a
4 printer for printing, which consists of the final printed product, property which
5 becomes a part of the final printed product, or copy from which the printed
6 product is produced, and which is located at the premises of the printer, shall
7 not be deemed to be an office, place of distribution, sales or sample room or
8 place, warehouse or storage place, or other place of business maintained,
9 occupied, or used by the person;

10 (b) Any retailer having any representative, agent, salesman, canvasser, or solicitor
11 operating in this state under the authority of the retailer or its subsidiary for
12 the purpose of selling, delivering, or the taking of orders for any tangible
13 personal property or ~~or~~ digital property. An unrelated printer with which a
14 person has contracted for printing shall not be deemed to be a representative,
15 agent, salesman, canvasser, or solicitor for the person;

16 (c) Any retailer soliciting orders for tangible personal property or digital property
17 from residents of this state on a continuous, regular, or systematic basis in
18 which the solicitation of the order, placement of the order by the customer or
19 the payment for the order utilizes the services of any financial institution,
20 telecommunication system, radio or television station, cable television service,
21 print media, or other facility or service located in this state;

22 (d) Any retailer deriving receipts from:

23 1. The lease or rental of tangible personal property situated in this state; or

24 2. The furnishing of services in this state;

25 (e) Any retailer soliciting orders for tangible personal property or digital property
26 from residents of this state on a continuous, regular, systematic basis if the
27 retailer benefits from an agent or representative operating in this state under

1 the authority of the retailer to repair or service tangible personal property or
2 digital property sold by the retailer; or

3 (f) Any retailer located outside Kentucky that uses a representative in Kentucky,
4 either full-time or part-time, if the representative performs any activities that
5 help establish or maintain a marketplace for the retailer, including receiving or
6 exchanging returned merchandise.

7 ➔Section 40. KRS 139.740 is amended to read as follows:

8 (1) No judgment shall be entered and no garnishment or attachment shall be permitted
9 by any court in this Commonwealth in an action for the collection of a debt arising
10 out of the sale of tangible personal property, ~~or~~ digital property, or services unless
11 an affidavit containing a certificate of service is executed by the plaintiff to the
12 effect that all use taxes due the Commonwealth have been paid.

13 (2) Prior to the filing of the affidavit, required under subsection (1) of this section, the
14 plaintiff (including counterclaimants or crossclaimants) shall, by first-class mail,
15 serve upon the department a copy of the affidavit. Within fifteen (15) days from the
16 date of the filing of the affidavit the department may file a counteraffidavit. In such
17 event no judgment shall be entered or garnishment or attachment issued until proof
18 has been taken concerning the matters at issue in the affidavit and counteraffidavit.

19 (3) In the event the use tax levied by this chapter is found to be due and unpaid the
20 plaintiff may elect to pay the tax to the department, and the amount of the tax paid
21 by the plaintiff shall be recovered as a part of any judgment entered. If the plaintiff
22 does not elect to pay the use tax found to be due and unpaid, judgment for the
23 amount of the tax shall be awarded to the Commonwealth.

24 (4) Any judgment awarded to the Commonwealth under this section shall constitute a
25 prior claim to any judgment obtained by the plaintiff.

26 (5) Tax as defined herein includes interest accrued thereon at the tax interest rate as
27 defined in KRS 131.010(6).

1 (6) The provisions of this section shall not apply to a plaintiff holding a retail permit
2 issued pursuant to this chapter.

3 ➔Section 41. KRS 243.0305 is amended to read as follows:

4 (1) Any licensed Kentucky distiller that is located in wet territory or in any precinct that
5 has authorized the limited sale of alcoholic beverages at distilleries under KRS
6 242.1243 and that has a gift shop or other retail outlet on its premises may conduct
7 the activities permitted under this section as a part of its distiller's license.

8 (2) A wholesaler registered to distribute the brands of any distiller may permit the
9 distiller to deliver a souvenir package directly from the distillery proper to any
10 portion of the distillery premises. However, all direct shipments shall be invoiced
11 from the distiller to the wholesaler and from the wholesaler to the distiller, and all
12 products directly shipped shall be included in the wholesaler's inventory and
13 depletions for purposes of tax collections imposed pursuant to KRS
14 243.720~~[243.710]~~ to 243.850, 243.884 to 243.890,~~[243.895]~~ and 243.990.

15 (3) A distiller may sell souvenir packages at retail to distillery visitors of legal drinking
16 age, in quantities not to exceed an aggregate of four and one-half (4-1/2) liters per
17 visitor per day.

18 (4) Hours of sale for souvenir packages at retail shall be in conformity with KRS
19 244.290(3).

20 (5) Except as provided in this section, souvenir package sales shall be governed by all
21 the statutes and administrative regulations governing the retail sale of distilled
22 spirits by the package.

23 (6) No wholesaler may restrict the sale of souvenir packages to the distiller of origin
24 exclusively, but shall make souvenir packages available to any Kentucky retail
25 licensee licensed for the sale of distilled spirits by the package.

26 (7) Notwithstanding any provision of KRS 244.050 to the contrary, a distillery holding
27 a sampling license may allow visitors to sample distilled spirits under the following

1 conditions:

2 (a) Sampling shall be permitted only on the licensed premises during regular
3 business hours;

4 (b) A distillery shall not charge for the samples; and

5 (c) A distillery shall not provide more than one and three-fourths (1-3/4) ounces
6 of samples per visitor per day.

7 (8) In accordance with this section, a distillery located in wet territory or in any territory
8 that has authorized the limited sale of alcoholic beverages under an election held
9 pursuant to KRS 242.1243 may:

10 (a) Hold an NQ3 retail drink license for the sale of alcoholic beverages on the
11 distillery premises. Notwithstanding KRS 243.110, a licensed distiller may
12 also hold any of the retail licenses available to it under this section;

13 (b) Sell alcoholic beverages produced or bottled on the premises of its Kentucky
14 licensed distillery for on-premises purposes without having to transfer
15 physical possession of those alcoholic beverages to a licensed wholesaler if:

16 1. All direct shipments are invoiced from the distiller to its wholesaler and
17 from the wholesaler to the distiller; and

18 2. All products directly shipped are included in the wholesaler's inventory
19 and depletions for purposes of tax collections imposed pursuant to KRS
20 243.710 to 243.890 and 243.990; and

21 (c) Employ persons to engage in the sale or service of alcohol under an NQ3
22 license, if each employee completes the department's Server Training in
23 Alcohol Regulations program within thirty (30) days of the beginning of his or
24 her employment.

25 (9) Except as expressly stated in this section, this section does not exempt the holder of
26 a distiller's license from:

27 (a) The provisions of KRS Chapters 241 to 244;

1 (b) The administrative regulations of the board; and

2 (c) Regulation by the board at all the distiller's licensed premises.

3 (10) Nothing in this section shall be construed to vitiate the policy of this commonwealth
4 supporting an orderly three (3) tier system for the production and sale of alcoholic
5 beverages.

6 ➔Section 42. KRS 243.990 is amended to read as follows:

7 (1) Any person who, by himself or herself or acting through another, directly or
8 indirectly, violates any of the provisions of KRS 243.020 to 243.670, for which no
9 other penalty is provided, shall, for the first offense, be guilty of a Class B
10 misdemeanor; and for the second and each subsequent violation, he or she shall be
11 guilty of a Class A misdemeanor. The penalties provided for in this subsection shall
12 be in addition to the revocation of the offender's license.

13 (2) Any person who, by himself or herself or through another, directly or indirectly,
14 violates subsection (1) of KRS 243.020 shall, for the first offense, be guilty of a
15 Class B misdemeanor; for the second offense, he or she shall be guilty of a Class A
16 misdemeanor; and for the third and each subsequent offense, he or she shall be
17 guilty of a Class D felony.

18 (3) Any person who violates subsection (3) of KRS 243.020 shall be guilty of a
19 violation.

20 (4) Any person who violates KRS 243.620 with respect to a license issued under KRS
21 243.050 or 243.082 shall be guilty of a violation.

22 (5) Any person who violates any of the provisions of KRS 243.720 or 243.730 or any
23 regulation issued thereunder shall be guilty of a Class A misdemeanor.

24 (6) Any person who violates any provision of KRS 243.720~~[243.710]~~ to 243.850 shall
25 be subject to the uniform civil penalties imposed pursuant to KRS 131.180.

26 (7) In every case, any tax imposed by KRS~~[243.710 to]~~ 243.720 which is not paid on
27 or before the due date shall bear interest at the tax interest rate as defined in KRS

1 131.010(6) from the due date until the date of payment.

2 (8) Any person who, by himself or herself or acting through another, directly or
3 indirectly, violates KRS 243.502(1) shall, for the first offense, be guilty of a Class B
4 misdemeanor, and for the second and each subsequent violation, he or she shall be
5 guilty of a Class A misdemeanor. The penalties provided for in this subsection shall
6 be in addition to the suspension or revocation of the offender's license.

7 (9) Any person who violates the provisions of KRS 243.897 shall be subject to a fine
8 not to exceed one thousand dollars (\$1,000).

9 ➔Section 43. KRS 138.130 is amended to read as follows:

10 As used in KRS 138.130 to 138.205, unless the context requires otherwise:

11 (1) "Department" means the Department of Revenue;

12 (2) "Manufacturer" means any person who manufactures or produces cigarettes, or
13 tobacco products within or without this state;

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

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

17 (5) "Cigarettes" means any roll for smoking made wholly or in part of tobacco, or any
18 substitute for tobacco, irrespective of size or shape and whether or not the tobacco
19 is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of
20 which is made of paper or any other substance or material, excepting tobacco.

21 "Cigarettes" shall not mean reference tobacco products, *electronic cigarettes, or e-*
22 *cigarettes*;

23 (6) "Reference tobacco products" means tobacco products, including cigarettes, made
24 by a manufacturer specifically for an accredited state college or university to be held
25 by the college or university until sale or transfer to a laboratory, hospital, medical
26 center, institute, college or university, manufacturer, or other institution. A
27 reference tobacco product shall carry a marking labeling the contents as a research

1 cigarette or a research tobacco product to be used only for tobacco-health research
2 and experimental purposes, which shall not be offered for sale, sold, or distributed
3 to consumers;

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

7 (8) "Tax evidence" means any stamps, metered impressions, or other indicia prescribed
8 by the department by administrative regulation as a means of denoting the payment
9 of tax;

10 (9) "Person" means any individual, firm, copartnership, joint venture, association,
11 municipal or private corporation whether organized for profit or not, the
12 Commonwealth of Kentucky or any of its political subdivisions, an estate, trust, or
13 any other group or combination acting as a unit, and the plural as well as the
14 singular;

15 (10) "Resident wholesaler" means any person who purchases at least seventy-five
16 percent (75%) of all cigarettes purchased by the wholesaler directly from the
17 manufacturer on which the tax provided for in KRS 138.140(1), (2), and (3) is
18 unpaid, and who maintains an established place of business in this state where the
19 wholesaler attaches cigarette tax evidence, or receives untaxed cigarettes;

20 (11) "Nonresident wholesaler" means any person who purchases cigarettes directly from
21 the manufacturer and maintains a permanent location or locations outside this state
22 where Kentucky cigarette tax evidence is attached or from where Kentucky cigarette
23 tax is reported and paid;

24 (12) "Sub-jobber" means any person who purchases cigarettes from a resident
25 wholesaler, nonresident wholesaler, or unclassified acquirer licensed under KRS
26 138.195 on which the tax imposed by KRS 138.140(1), (2), and (3) has been paid
27 and makes them available to retailers for resale. No person shall make cigarettes

1 available to retailers for resale unless the person certifies and establishes to the
2 satisfaction of the department that firm arrangements have been made to regularly
3 supply at least five (5) retail locations with Kentucky tax-paid cigarettes for resale
4 in the regular course of business;

5 (13) "Vending machine operator" means any person who operates one (1) or more
6 cigarette vending machines;

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

10 (15) "Unclassified acquirer" means any person in this state who acquires cigarettes from
11 any source on which the tax imposed by KRS 138.140(1), (2), and (3) has not been
12 paid, and who is not a person otherwise required to be licensed under the provisions
13 of KRS 138.195;

14 (16) "Tobacco products" means:

15 (a) *Electronic cigarettes and e-cigarettes; and*

16 (b) Any smokeless tobacco products, smoking tobacco, chewing tobacco, and any
17 kind or form of tobacco prepared in a manner suitable for chewing or
18 smoking, or both, or any kind or form of tobacco that is suitable to be placed
19 in an individual's oral cavity, except cigarettes;

20 (17) "Distributor" means any person within this state in possession of tobacco products
21 for resale within this state on which the tax imposed under KRS 138.140(4) has not
22 been paid;

23 (18) "Retail distributor" means a retailer who has obtained a retail distributor's license
24 under KRS 138.195(7)(b);

25 (19) "Chewing tobacco" means any leaf tobacco that is not intended to be smoked and
26 includes loose leaf chewing tobacco, plug chewing tobacco, and twist chewing
27 tobacco, but "chewing tobacco" does not include snuff;

- 1 (20) "Single unit" means a consumer-sized container, pouch, or package:
- 2 (a) Containing less than four (4) ounces of chewing tobacco by net weight;
- 3 (b) Produced by the manufacturer to be sold to consumers as a single unit and not
- 4 produced to be divided or sold separately; and
- 5 (c) Containing one (1) individual container, pouch, or package;
- 6 (21) "Half-pound unit" means a consumer-sized container, pouch, or package:
- 7 (a) Containing at least four (4) ounces but not more than eight (8) ounces of
- 8 chewing tobacco by net weight;
- 9 (b) Produced by the manufacturer to be sold to consumers as a half-pound unit
- 10 and not produced to be divided or sold separately; and
- 11 (c) Containing one (1) individual container, pouch, or package;
- 12 (22) "Pound unit" means a consumer-sized container, pouch, or package:
- 13 (a) Containing more than eight (8) ounces but not more than sixteen (16) ounces
- 14 of chewing tobacco by net weight;
- 15 (b) Produced by the manufacturer to be sold to consumers as a pound unit and not
- 16 produced to be divided or sold separately;~~and~~
- 17 (c) Containing one (1) individual container, pouch, or package; and
- 18 (23) (a) "Snuff" means tobacco that:
- 19 1. Is finely cut, ground, or powdered; and
- 20 2. Is not for smoking.
- 21 (b) "Snuff" includes snus; and
- 22 (24) (a) "Electronic cigarette" means any device, regardless of shape or size, that:
- 23 1. Contains a heating element, battery, electronic circuit, power source,
- 24 or other electronic, chemical, or mechanical means; and
- 25 2. Can be used to deliver a vapor of nicotine or any other substance;
- 26 the use of which simulates smoking.
- 27 (b) "Electronic cigarette" includes but is not limited to:

1 1. The device, whether manufactured, distributed, marketed, or sold as
 2 an e-cigarette, e-cigar, e-pipe, or similar product and every variation
 3 thereof;

4 2. Any vapor cartridge or other container of a liquid solution or other
 5 material that is intended to be used with or in the device; and

6 3. Any component of the device or related product, that may be sold with
 7 or without the device.

8 ➔Section 44. KRS 138.140 is amended to read as follows:

9 (1) A tax shall be paid on the sale of cigarettes within the state at a proportionate rate of
 10 three cents (\$0.03) on each twenty (20) cigarettes.

11 (2) Effective October 1, 2017~~[April 1, 2009]~~, a surtax shall be paid in addition to the
 12 tax levied in subsection (1) of this section at a proportionate rate of one dollar and
 13 fifty-six cents (\$1.56)~~[fifty six cents (\$0.56)]~~ on each twenty (20) cigarettes. This
 14 tax shall be paid only once, at the same time the tax imposed by subsection (1) of
 15 this section is paid.

16 (3) Effective June 1, 2005, a surtax shall be paid in addition to the tax levied in
 17 subsection (1) of this section and in addition to the surtax levied by subsection (2)
 18 of this section, at a proportionate rate of one cent (\$0.01) on each twenty (20)
 19 cigarettes. This tax shall be paid at the same time the tax imposed by subsection (1)
 20 of this section and the surtax imposed by subsection (2) of this section are paid. The
 21 revenues from this surtax shall be deposited in the cancer research institutions
 22 matching fund created in KRS 164.043.

23 (4) (a) Effective October 1, 2017~~[August 1, 2013]~~, an excise tax is hereby imposed
 24 upon every distributor for the privilege of selling tobacco products in this state
 25 at the following rates:

26 1. Upon snuff at the rate of fifty-one cents (\$0.51)~~[nineteen cents (\$0.19)]~~
 27 per each one and one-half (1-1/2) ounces or portion thereof by net

weight sold;

2. Upon chewing tobacco at the rate of:

- a. **Fifty-one cents (\$0.51)**~~[Nineteen cents (\$0.19)]~~ per each single unit sold;
- b. **One dollar and seven cents (\$1.07)**~~[Forty cents (\$0.40)]~~ per each half-pound unit sold; or
- c. **One dollar and seventy-three cents (\$1.73)**~~[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 **one dollar and seventy-three cents (\$1.73)**~~[sixty five cents (\$0.65)]~~ plus **fifty-one cents (\$0.51)**~~[nineteen cents (\$0.19)]~~ for each increment of four (4) ounces or portion thereof exceeding sixteen (16) ounces sold; and

3. Upon tobacco products sold, at the rate of **forty percent (40%)**~~[fifteen percent (15%)]~~ 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 package or on the manufacturer's invoice shall be used to calculate the tax due on snuff or chewing tobacco.

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

2. A licensed retail distributor of tobacco products shall be subject to the

1 excise tax as follows:

- 2 a. On purchases of untaxed snuff, at the same rate levied by
3 paragraph (a)1. of this subsection;
- 4 b. On purchases of untaxed chewing tobacco, at the same rates levied
5 by paragraph (a)2. of this subsection; and
- 6 c. On purchases of untaxed tobacco products, except snuff and
7 chewing tobacco, fifteen percent (15%) of the total purchase price
8 as invoiced by the retail distributor's supplier.

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

13 2. A distributor licensed under KRS 138.195(7)(a) may sell tobacco
14 products to another distributor licensed under KRS 138.195(7)(a)
15 without payment of the excise tax. In such case, the purchasing licensed
16 distributor shall be the distributor liable for the tax.

17 3. A licensed distributor or licensed retail distributor shall:

18 a. Identify and display the distributor's or retail distributor's license
19 number on the invoice to the retailer; and

20 b. Identify and display the excise tax separately on the invoice to the
21 retailer. If the excise tax is included as part of the product's sales
22 price, the licensed distributor or licensed retail distributor shall list
23 the total excise tax in summary form by tax type with invoice
24 totals.

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

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

4 (5) The taxes imposed by subsections (1) and (4) of this section shall not apply to
5 reference tobacco products.

6 (6) The taxes imposed by subsections (1) to (4) of this section shall be paid only once,
7 regardless of the number of times the cigarettes, or tobacco products may be sold.

8 (7) The department may prescribe forms and promulgate administrative regulations to
9 execute and administer the provisions of this section.

10 (8) The General Assembly recognizes that increasing taxes on tobacco products should
11 reduce consumption, and therefore result in healthier lifestyles for Kentuckians. The
12 relative taxes on tobacco products proposed in this section reflect the growing data
13 from scientific studies suggesting that although smokeless tobacco poses some
14 risks, those health risks are significantly less than the risks posed by other forms of
15 tobacco products. Moreover, the General Assembly acknowledges that some in the
16 public health community recognize that tobacco harm reduction should be a
17 complementary public health strategy regarding tobacco products. Taxing tobacco
18 products according to relative risk is a rational tax policy and may well serve the
19 public health goal of reducing smoking-related mortality and morbidity and
20 lowering health care costs associated with tobacco-related disease.

21 ➔Section 45. KRS 138.143 is amended to read as follows:

22 (1) Every retailer, sub-jobber, resident wholesaler, nonresident wholesaler, and
23 unclassified acquirer shall:

24 (a) Take a physical inventory of all cigarettes in packages bearing Kentucky tax
25 stamps, and all unaffixed Kentucky cigarette tax stamps possessed by them or
26 in their control at 11:59 p.m. on September 30, 2017~~[March 31, 2009]~~.
27 Inventory of cigarettes in vending machines may be accomplished by:

- 1 1. Taking an actual physical inventory;
- 2 2. Estimating the cigarettes in vending machines by reporting one-half
- 3 (1/2) of the normal fill capacity of the machines, as reflected in
- 4 individual inventory records maintained for vending machines; or
- 5 3. Using a combination of the methods prescribed in subparagraphs 1. and
- 6 2. of this paragraph;
- 7 (b) File a return with the department on or before **October 10, 2017**~~[April 10,~~
- 8 ~~2009]~~, showing the entire wholesale and retail inventories of cigarettes in
- 9 packages bearing Kentucky tax stamps, and all unaffixed Kentucky cigarette
- 10 tax stamps possessed by them or in their control at 11:59 p.m. on **September**
- 11 **30, 2017**~~[March 31, 2009]~~; and
- 12 (c) Pay a floor stock tax at a proportionate rate equal to **one dollar (\$1)**~~[thirty~~
- 13 ~~cents (\$0.30)]~~ on each twenty (20) cigarettes in packages bearing a Kentucky
- 14 tax stamp and unaffixed Kentucky tax stamps in their possession or control at
- 15 11:59 p.m. on **September 30, 2017**~~[March 31, 2009]~~.
- 16 (2) Every retailer and sub-jobber shall:
- 17 (a) **For snuff:**
- 18 1. Take a physical inventory of all units of snuff possessed by them or in
- 19 their control at 11:59 p.m. on **September 30, 2017**~~[March 31, 2009]~~;
- 20 2. File a return with the department on or before **October 10, 2017**~~[April~~
- 21 ~~10, 2009]~~, showing the entire inventory of snuff possessed by them or in
- 22 their control at 11:59 p.m. on **September 30, 2017**~~[March 31, 2009]~~; and
- 23 3. Pay a floor stock tax at a proportionate rate equal to **thirty-two cents**
- 24 **(\$0.32)**~~[nine and one-half cents (\$0.095)]~~ on each unit of snuff in their
- 25 possession or control at 11:59 p.m. on **September 30, 2017**~~[March 31,~~
- 26 ~~2009]~~~~; and]~~
- 27 (b) **For chewing tobacco:**

1. Take a physical inventory of all units of chewing tobacco possessed by them or in their control at 11:59 p.m. on September 30, 2017;
 2. File a return with the department on or before October 10, 2017, showing the entire inventory of chewing tobacco possessed by them or in their control at 11:59 p.m. on September 30, 2017; and
 3. Pay a floor stock tax at a proportionate rate equal to:
 - a. For single units, thirty-two cents (\$0.32) on each single unit in their possession or control at 11:59 p.m. on September 30, 2017;
 - b. For half-pound units, sixty-seven cents (\$0.67) on each half-pound unit in their possession or control at 11:59 p.m. on September 30, 2017;
 - c. For pound units, one dollar and eight cents (\$1.08) on each pound unit in their possession or control at 11:59 p.m. on September 30, 2017; and
 - d. For containers of more than sixteen (16) ounces by net weight, one dollar and eight cents (\$1.08) plus thirty-two cents (\$0.32) for each increment of four (4) ounces or portion thereof exceeding sixteen (16) ounces, on each container in their possession or control at 11:59 p.m. on September 30, 2017; and
- (c) For tobacco products other than snuff or chewing tobacco:
1. ~~{a.}~~ Take a physical inventory of all ~~{other}~~ tobacco products other than snuff or chewing tobacco possessed by them or in their control at 11:59 p.m. on September 30, 2017 ~~{March 31, 2009}~~;
 2. ~~{b.}~~ File a return with the department on or before October 10, 2017 ~~{April 10, 2009}~~, showing the entire inventories of ~~{other}~~ tobacco products other than snuff or chewing tobacco possessed by them or in their control at 11:59 p.m. on September 30, 2017 ~~{March 31, 2009}~~; and

1 **3.** ~~{e.—}~~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 price
3 of ~~{other}~~ tobacco products **other than snuff or chewing tobacco** in
4 their possession or control at 11:59 p.m. on **September 30, 2017**~~{March~~
5 **31, 2009**~~}~~.

6 ~~{2.—a.}~~ As used in this paragraph, "purchase price" means the actual amount
7 paid for the ~~{other}~~ tobacco products subject to the tax imposed by this
8 paragraph.

9 ~~{b.—}~~If the retailer or sub-jobber cannot determine the actual amount
10 paid for each item of other tobacco product, the retailer or sub-
11 jobber may use as the purchase price the amount per unit paid as
12 reflected on the most recent invoice received prior to April 1,
13 2009, — for the same category of other tobacco product.

14 ~~c.—~~To prevent double taxation, if the invoice used by the retailer or
15 sub-jobber to determine the purchase price of the other tobacco
16 product does not separately state the tax paid by the wholesaler,
17 the retailer or sub-jobber may reduce the amount paid per unit by
18 seven and one-half percent (7.5%).}

19 (3) (a) The taxes imposed by this section may be paid in three (3) installments. The
20 first installment, in an amount equal to at least one-third (1/3) of the total
21 amount due, shall be remitted with the return provided by the department on
22 or before **October 10, 2017**~~{April 10, 2009}~~. The second installment, in an
23 amount that brings the total amount paid to at least two-thirds (2/3) of the total
24 amount due, shall be remitted on or before **November 10, 2017**~~{May 10,~~
25 **2009**~~}~~. The third installment, in an amount equal to the remaining balance,
26 shall be remitted on or before **December 10, 2017**~~{June 10, 2009}~~.

27 (b) Interest shall not be imposed against any outstanding installment payment not

1 yet due from any retailer, sub-jobber, resident wholesaler, nonresident
2 wholesaler, or unclassified acquirer who files the return and makes payments
3 as required under this section.

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

9 ➔Section 46. KRS 65.125 is amended to read as follows:

10 (1) For the purposes of this section, "local government" means a city or county
11 government.

12 (2) In order that a local government may provide funding for a specified project,
13 program, or service, any local government may enact a special ad valorem tax for
14 the purpose subject to the following:

15 (a) Any such tax shall be enacted by ordinance as provided in KRS 83A.060 for
16 cities and KRS 67.076 to 67.078 for counties. The ordinance shall identify and
17 generally describe the program, project, or service designated by the local
18 government and provide for the levy of an annual tax sufficient to defray the
19 cost;

20 (b) Upon first reading of the ordinance which will enact a special ad valorem tax,
21 the chief executive authority shall direct that a copy of the ordinance be
22 delivered to the county clerk;

23 (c) Upon receipt of the ordinance, the county clerk shall have prepared the
24 question, which shall be "Are you in favor of the proposal entitled?
25 Yes.... No...." The question shall be placed before the voters of the local
26 government at the next regular election if the clerk receives the ordinance not
27 later than the second Tuesday in August preceding the day of a general

1 election. The county clerk shall cause to be published in accordance with KRS
2 Chapter 424, at the same time as other voter information, the full text of the
3 proposal. The county clerk shall cause to be posted in each polling place one
4 (1) copy of the full text of the proposal;

5 (d) The provisions of the general election law shall apply to questions submitted
6 to voters under this section. The certificate of the body authorized by law to
7 canvass election returns shall be delivered to the chief executive authority of
8 the local government proposing the special ad valorem tax. The certificate
9 shall be entered upon the records of the local government at the next regular
10 meeting of the legislative body;

11 (e) Upon passage of the question by a simple majority of those voting, the local
12 government may proceed with the final adoption of the ordinance levying the
13 special ad valorem tax at a rate not to exceed that approved by the voters.

14 (3) Any special ad valorem tax imposed under the authority of this section shall be
15 based upon the assessed valuation of all taxable property within the jurisdictional
16 boundaries of the local government.

17 (4) Any special ad valorem tax shall be collected in the same manner as are other ad
18 valorem taxes. The revenues generated shall be in addition to other taxes and used
19 solely for the specified project, program, or service as designated by the ordinance
20 enacting the tax. The proceeds of the tax shall be accounted for in a separate fund
21 and shall not be disbursed, expended, encumbered, or transferred for any use or
22 purpose other than provided by the ordinance enacting the special ad valorem tax.

23 (5) Any special ad valorem tax shall be in addition to the tax rate levied ~~and exclusive~~
24 ~~of the recall provisions~~ in KRS 68.245, 91.260, 92.280, ~~132.017,~~ and 132.027.

25 ➔Section 47. KRS 65.674 is amended to read as follows:

26 ~~{(1)}~~Once an emergency services board assumes control over fire, ambulance, or
27 emergency squad districts, a fiscal court, or fiscal courts through an interlocal agreement,

1 may opt to provide fire, ambulance, and emergency squad services directly or through an
2 agency of county government. If that is the case, a dedicated ad valorem tax for the
3 provision of fire, ambulance, and emergency squad services exclusive of all other taxes
4 may be levied by the county or counties. The provisions of the ad valorem tax of KRS
5 65.670 shall apply.

6 ~~[(2) The initial levy of the ad valorem tax for the provision of funding to the emergency~~
7 ~~services board under this section shall not be subject to the recall provisions of KRS~~
8 ~~68.245 or 132.023, whichever is applicable. Subsequent changes to the amount shall~~
9 ~~be subject to the provisions of KRS 68.245 or 132.023, whichever is applicable.]~~

10 ➔Section 48. KRS 67.862 is amended to read as follows:

11 The provisions of KRS 68.245 and~~[,]~~ 132.010~~[, and 132.017]~~ shall apply to ad valorem
12 tax rates levied by charter county governments.

13 ➔Section 49. KRS 67.938 is amended to read as follows:

14 (1) The tax structure, tax rates, and level of services in effect in the county and in each
15 of the participating cities upon the adoption of a unified local government shall
16 remain in effect after the adoption of the unified local government and shall remain
17 the same until changed by the newly elected unified local government legislative
18 council.

19 (2) In order to maintain the tax structure, tax rates, or level of services in the areas of
20 the unified local government formerly comprising incorporated cities, the unified
21 local government council may provide, in a manner described in this section, for
22 taxes and services within the formerly incorporated cities that are different from the
23 taxes and services which are applicable in the remainder of the unified local
24 government. If a unified local government is formed that contains a participating
25 city with a restaurant tax imposed pursuant to KRS 91A.400, the restaurant tax may
26 be retained by the unified local government in the area of the participating city.

27 (3) Any difference in the ad valorem tax rate on the class of property which includes

1 the surface of the land in the portion of the county formerly comprising the
2 incorporated cities, and the surface of the land in the portion of the county other
3 than that formerly comprising the incorporated cities, may be imposed directly by
4 the unified local government legislative council. Any change in these ad valorem
5 tax rates shall comply with KRS 68.245, 132.010, ~~132.017,~~ and 132.027 and shall
6 be used for services as provided by KRS 82.085.

- 7 (4) All delinquent taxes of a participating city in a unified local government shall be
8 filed with the county clerk and shall be known as certificates of delinquency or
9 personal property certificates of delinquency and shall be governed by the
10 procedures set out in KRS Chapter 134, except that certificates of delinquency and
11 personal property certificates of delinquency on former city tax bills may be paid or
12 purchased directly from the clerk under KRS 134.126 and 134.127.

13 ➔Section 50. KRS 67A.843 is amended to read as follows:

- 14 (1) An urban-county government is authorized to place before the public, via
15 referendum according to the procedure established in KRS 67A.847, the question of
16 whether to fund a purchase of development rights program by means of one (1) or
17 more of the following special tax levies which shall be in addition to all taxes
18 otherwise permitted by law in the urban-county:

19 (a) An ad valorem tax not to exceed five cents (\$0.05) per one hundred dollars
20 (\$100) of assessed value upon all taxable property in the urban-county, subject
21 only to the aggregate limits on property taxes set forth in the Kentucky
22 Constitution~~, but not subject to the recall provisions of KRS 132.017~~;

23 (b) A license fee not to exceed one-eighth of one percent (0.125%) on franchises,
24 trades, occupations and professions in accordance with KRS 92.280(2), except
25 that no fee shall be collected from any individual who is not a resident of the
26 urban-county; and

27 (c) A transient room tax as defined in KRS 91A.390 not to exceed one percent

1 (1%) of rents.

2 (2) The proposal put before the voters shall set forth the following information:

3 (a) General descriptions of the types and locations of the properties from which
4 development rights may be purchased under the program; and in describing
5 the types of property, general descriptions such as "agricultural,"
6 "agriculturally zoned," or "farm" shall be sufficient, and in indicating the
7 locations, general descriptions such as "northern section" and "eastern
8 quadrant" shall be sufficient; and

9 (b) The type, rate, and effective date, including the ending date if the levy is for a
10 specific duration, of the special tax levy, or levies, from among those
11 authorized in subsection (1) of this section, which is proposed to fund the
12 program.

13 ➔Section 51. KRS 68.245 is amended to read as follows:

14 (1) The property valuation administrator shall submit an official estimate of real and
15 personal property and new property assessment as defined in KRS 132.010, to the
16 county judge/executive by April 1 of each year.

17 (2) No county fiscal court shall levy a tax rate, excluding any special tax rate which
18 may be levied at the request of a county community improvement district pursuant
19 to KRS 107.350 and 107.360, following a favorable vote upon such tax by the
20 voters of that county, which exceeds the compensating tax rate defined in KRS
21 132.010, until the taxing district has complied with the provisions of subsection (5)
22 of this section.

23 (3) The state local finance officer shall certify to each county judge/executive, by June
24 30 of each year, the ~~following:~~

25 ~~(a) The~~ compensating tax rate, as defined in KRS 132.010, and the amount of
26 revenue expected to be produced by it;

27 ~~(b) The tax rate which will produce no more revenue from real property,~~

1 ~~exclusive of revenue from new property, than four percent (4%) over the~~
2 ~~amount of revenue produced by the compensating tax rate defined in KRS~~
3 ~~132.010 and the amount of revenue expected to be produced by it].~~

4 (4) Real and personal property assessment and new property determined in accordance
5 with KRS 132.010 shall be certified to the state local finance officer by the
6 Department of Revenue upon completion of action on property assessment data.

7 (5) (a) A county fiscal court, proposing to levy a tax rate, excluding any special tax
8 rate which may be levied at the request of a county community improvement
9 district pursuant to KRS 107.350 and 107.360, following a favorable vote
10 upon the tax by the voters of that county, which exceeds the compensating tax
11 rate defined in KRS 132.010, shall hold a public hearing to hear comments
12 from the public regarding the proposed tax rate. The hearing shall be held in
13 the principal office of the taxing district, or, in the event the taxing district has
14 no office, or the office is not suitable for a hearing, the hearing shall be held in
15 a suitable facility as near as possible to the geographic center of the district.

16 (b) County fiscal courts of counties containing a city of the first class proposing to
17 levy a tax rate, excluding any special tax rate which may be levied at the
18 request of a county community improvement district pursuant to KRS 107.350
19 and 107.360, following a favorable vote upon the tax by the voters of that
20 county, which exceeds the compensating tax rate defined in KRS 132.010,
21 shall hold three (3) public hearings to hear comments from the public
22 regarding the proposed tax rate. The hearings shall be held in three (3)
23 separate locations; each location shall be determined by dividing the county
24 into three (3) approximately equal geographic areas, and identifying a suitable
25 facility as near as possible to the geographic center of each area.

26 (c) The county fiscal court shall advertise the hearing by causing to be published
27 at least twice in two (2) consecutive weeks, in the newspaper of largest

1 circulation in the county, a display type advertisement of not less than twelve
2 (12) column inches, the following:

- 3 1. The tax rate levied in the preceding year, and the revenue produced by
4 that rate;
- 5 2. The tax rate proposed for the current year and the revenue expected to be
6 produced by that rate;
- 7 3. The compensating tax rate and the revenue expected from it;
- 8 4. The revenue expected from new property and personal property;
- 9 5. The general areas to which revenue in excess of the revenue produced in
10 the preceding year is to be allocated;
- 11 6. A time and place for the public hearings which shall be held not less
12 than seven (7) days nor more than ten (10) days, after the day that the
13 second advertisement is published;
- 14 7. The purpose of the hearing; and
- 15 8. A statement to the effect that the General Assembly has required
16 publication of the advertisement and the information contained therein.

17 (d) In lieu of the two (2) published notices, a single notice containing the required
18 information may be sent by first-class mail to each person owning real
19 property, addressed to the property owner at his residence or principal place of
20 business as shown on the current year property tax roll.

21 (e) The hearing shall be open to the public. All persons desiring to be heard shall
22 be given an opportunity to present oral testimony. The county fiscal court may
23 set reasonable time limits for testimony.

24 ~~[(6) (a) That portion of a tax rate, excluding any special tax rate which may be levied~~
25 ~~at the request of a county community improvement district pursuant to KRS~~
26 ~~107.350 and 107.360, following a favorable vote upon a tax by the voters of~~
27 ~~that county, levied by an action of a county fiscal court which will produce~~

1 ~~revenue from real property, exclusive of revenue from new property, more~~
2 ~~than four percent (4%) over the amount of revenue produced by the~~
3 ~~compensating tax rate defined in KRS 132.010 shall be subject to a recall vote~~
4 ~~or reconsideration by the taxing district, as provided for in KRS 132.017, and~~
5 ~~shall be advertised as provided for in paragraph (b) of this subsection.~~

6 ~~(b) The county fiscal court shall, within seven (7) days following adoption of an~~
7 ~~ordinance to levy a tax rate, excluding any special tax rate which may be~~
8 ~~levied at the request of a county community improvement district pursuant to~~
9 ~~KRS 107.350 and 107.360, following a favorable vote upon a tax by the~~
10 ~~voters of that county, which will produce revenue from real property,~~
11 ~~exclusive of revenue from new property as defined in KRS 132.010, more~~
12 ~~than four percent (4%) over the amount of revenue produced by the~~
13 ~~compensating tax rate defined in KRS 132.010, cause to be published, in the~~
14 ~~newspaper of largest circulation in the county, a display type advertisement of~~
15 ~~not less than twelve (12) column inches the following:~~

16 ~~1. The fact that the county fiscal court has adopted a rate;~~

17 ~~2. The fact that the part of the rate which will produce revenue from real~~
18 ~~property, exclusive of new property as defined in KRS 132.010, in~~
19 ~~excess of four percent (4%) over the amount of revenue produced by the~~
20 ~~compensating tax rate defined in KRS 132.010 is subject to recall; and~~

21 ~~3. The name, address, and telephone number of the county clerk, with a~~
22 ~~notation to the effect that that official can provide the necessary~~
23 ~~information about the petition required to initiate recall of the tax rate.]~~

24 ➔ Section 52. KRS 68.248 is amended to read as follows:

- 25 (1) In the event that the tax rate applicable to real property levied by a county fiscal
26 court will produce a percentage increase in revenue from personal property less than
27 the percentage increase in revenue from real property, the county fiscal court may

1 levy a tax rate applicable to personal property which will produce the same
2 percentage increase in revenue from personal property as the percentage increase in
3 revenue from real property.

4 (2) The tax rate applicable to personal property levied by a county fiscal court under the
5 provisions of subsection (1) of this section shall not be subject to the public hearing
6 provisions of KRS 68.245(5)~~and to the recall provisions of KRS 68.245(6)~~.

7 ➔Section 53. KRS 82.095 is amended to read as follows:

8 (1) Any city with a population equal to or greater than three thousand (3,000) but less
9 than twenty thousand (20,000) based upon the most recent federal decennial census,
10 located in a county containing a consolidated local government, which provides
11 police, fire, or garbage collection services for the residents of the city may levy a
12 supplemental tax which shall be in addition to ad valorem property taxes.

13 (2) Such supplemental tax shall be in an amount not to exceed the reasonable cost of
14 police, fire, and garbage collection services actually provided by the city. The rate
15 of such tax shall be established by an ordinance which shall have readings at no less
16 than two (2) different meetings of the city legislative body before passage.

17 (3) The rate of such supplemental tax may be apportioned in a reasonable manner, other
18 than an ad valorem approach, so that the recipient of police, fire, or garbage
19 collection services pays an amount based on the cost of services actually received.

20 ~~[(4) Any ordinance levying a supplemental tax pursuant to subsection (2) of this section~~
21 ~~may be recalled as provided in subsections (2) and (3) of KRS 160.485, provided~~
22 ~~that the petition for recall shall be effective upon the signature of a number of~~
23 ~~registered and qualified voters as described therein equal to five percent (5%)~~
24 ~~instead of the percentage provided therein.]~~

25 ➔Section 54. KRS 97.590 is amended to read as follows:

26 (1) For the purpose of purchasing and maintaining public parks within the jurisdictional
27 limits, cities of any class, counties, charter counties, and urban-county governments

1 may levy taxes not exceeding five cents (\$0.05) on each one hundred dollars (\$100)
2 of all taxable property within the corporate limits, subject only to the aggregate
3 limits on property taxes set forth in the Kentucky Constitution~~[-, but not subject to~~
4 ~~the recall provisions of KRS 132.017]~~. No city, county, charter county, or urban-
5 county government shall levy the tax until a public referendum has been conducted
6 in accordance with the provisions of KRS 83A.120 in the case of a city, county, or
7 charter county or in accordance with the provisions of KRS 67A.160 in the case of
8 an urban-county government and has been adopted by the city's, county's, charter
9 county's, or urban-county government's voters. The public referendum provisions in
10 this section shall not apply to any city, county, charter county, or urban-county
11 government that has in effect on July 15, 1998, a tax for park purposes in
12 accordance with this section or KRS 97.550.

- 13 (2) The funds derived from the levy shall be held by the treasurer of the city or the
14 treasurer of the county in a separate and distinct fund designated the "Park Fund."
15 The funds shall be paid out by the treasurer only upon order issued by the park
16 board signed by the secretary and countersigned by the president after the bill for
17 the withdrawal has been approved by the board, unless a park board has not been
18 appointed under KRS 97.550 to 97.600, in which case the funds shall be
19 appropriated by the city legislative body, the fiscal court, or the legislative body of
20 the charter county government or urban-county government for purposes consistent
21 with the levy. The treasurer shall not honor in any one (1) year orders for a greater
22 sum than the amount apportioned and levied for that year for park and playground
23 purposes.

24 ➔Section 55. KRS 132.0225 is amended to read as follows:

25 ~~[(1)] A taxing district[- that does not elect to attempt to set a rate that will produce more~~
26 ~~than four percent (4%) in additional revenue, exclusive of revenue from new property as~~
27 ~~defined in KRS 132.010, over the amount of revenue produced by the compensating tax~~

1 ~~rate as defined in KRS 132.010]~~ shall establish a final tax rate within forty-five (45) days
2 of the department's certification of the county's property tax roll. A city that does not elect
3 to have city ad valorem taxes collected by the sheriff as provided in KRS 91A.070(1)
4 shall be exempt from this deadline. Any nonexempt taxing district that fails to meet this
5 deadline shall be required to use the compensating tax rate for that year's property tax
6 bills.

7 ~~[(2) A taxing district that elects to attempt to set a rate that will produce more than four~~
8 ~~percent (4%) in additional revenue, exclusive of revenue from new property as~~
9 ~~defined in KRS 132.010, over the amount of revenue produced by the compensating~~
10 ~~tax rate as defined in KRS 132.010 shall follow the provisions of KRS 132.017.]~~

11 ➔Section 56. KRS 132.023 is amended to read as follows:

12 (1) No special purpose governmental entity shall levy a tax rate which exceeds the
13 compensating tax rate until the taxing district has complied with the provisions of
14 subsection (2) of this section.

15 (2) (a) A special purpose governmental entity proposing to levy a tax rate which
16 exceeds the compensating tax rate shall hold a public hearing to hear
17 comments from the public regarding the proposed tax rate. The hearing shall
18 be held in the same location where the governing body of the city or county
19 where the largest number of citizens served by the special purpose
20 governmental entity reside meets, and shall be held immediately before a
21 regularly scheduled meeting of that governing body.

22 (b) The special purpose governmental entity shall advertise the hearing by causing
23 to be published at least twice in two (2) consecutive weeks, in the newspaper
24 of largest circulation in the county, a display type advertisement of not less
25 than twelve (12) column inches, the following:

- 26 1. The tax rate levied in the preceding year, and the revenue produced by
27 that rate;

- 1 2. The tax rate proposed for the current year and the revenue expected to be
- 2 produced by that rate;
- 3 3. The compensating tax rate and the revenue expected from it;
- 4 4. The revenue expected from new property and personal property;
- 5 5. The general areas to which revenue in excess of the revenue produced in
- 6 the preceding year is to be allocated;
- 7 6. A time and place for the public hearing which shall be held not less than
- 8 seven (7) days, nor more than ten (10) days, after the day that the second
- 9 advertisement is published;
- 10 7. The purpose of the hearing; and
- 11 8. A statement to the effect that the General Assembly has required
- 12 publication of the advertisement and the information contained therein.
- 13 (c) In lieu of the two (2) published notices, a single notice containing the required
- 14 information may be sent by first-class mail to each person owning real
- 15 property in the special purpose governmental entity, addressed to the property
- 16 owner at his residence or principal place of business as shown on the current
- 17 year property tax roll.
- 18 (d) The hearing shall be open to the public. All persons desiring to be heard shall
- 19 be given an opportunity to present oral testimony. The special purpose
- 20 governmental entity may set reasonable time limits for testimony.
- 21 ~~[(3) (a) That portion of a tax rate levied by an action of a special purpose~~
- 22 ~~governmental entity which will produce revenue from real property, exclusive~~
- 23 ~~of revenue from new property, more than four percent (4%) over the amount~~
- 24 ~~of revenue produced by the compensating tax rate shall be subject to a recall~~
- 25 ~~vote or reconsideration by the special purpose governmental entity, as~~
- 26 ~~provided for in KRS 132.017, and shall be advertised as provided in paragraph~~
- 27 ~~(b) of this subsection.~~

1 ~~(b) The special purpose governmental entity shall, within seven (7) days~~
2 ~~following adoption of an ordinance, order, resolution, or motion to levy a tax~~
3 ~~rate which will produce revenue from real property, exclusive of revenue from~~
4 ~~new property, more than four percent (4%) over the amount of revenue~~
5 ~~produced by the compensating tax rate, cause to be published, in the~~
6 ~~newspaper of largest circulation in the county, a display type advertisement of~~
7 ~~not less than twelve (12) column inches the following:~~

8 ~~1. The fact that the taxing district has adopted a rate;~~

9 ~~2. The fact that the part of the rate which will produce revenue from real~~
10 ~~property, exclusive of new property, in excess of four percent (4%) over~~
11 ~~the amount of revenue produced by the compensating tax rate is subject~~
12 ~~to recall; and~~

13 ~~3. The name, address, and telephone number of the county clerk of the~~
14 ~~county in which the special purpose governmental entity is located, with~~
15 ~~a notation to the effect that that official can provide the necessary~~
16 ~~information about the petition required to initiate recall of the tax rate.}]~~

17 ➔ Section 57. KRS 132.024 is amended to read as follows:

18 (1) If the tax rate applicable to real property levied by a special purpose governmental
19 entity will produce a percentage increase in revenue from personal property less
20 than the percentage increase in revenue from real property, the special purpose
21 governmental entity may levy a tax rate applicable to personal property which will
22 produce the same percentage increase in revenue from personal property as the
23 percentage increase in revenue from real property.

24 (2) The tax rate applicable to personal property levied by a special purpose
25 governmental entity under the provisions of subsection (1) of this section shall not
26 be subject to the public hearing provisions of KRS 132.023(2)~~and to the recall~~
27 ~~provisions of KRS 132.023(3)].~~

1 ➔Section 58. KRS 132.027 is amended to read as follows:

- 2 (1) No city or urban-county government shall levy a tax rate which exceeds the
3 compensating tax rate defined in KRS 132.010 until the city or urban-county
4 government has complied with the provisions of subsection (2) of this section.
- 5 (2) (a) Cities or urban-county governments proposing to levy a tax rate which
6 exceeds the compensating tax rate defined in KRS 132.010 shall hold a public
7 hearing to hear comments from the public regarding the proposed tax rate. The
8 hearing shall be held in the principal office of the taxing district, or, in the
9 event the taxing district has no office, or the office is not suitable for a
10 hearing, the hearing shall be held in a suitable facility as near as possible to
11 the geographic center of the district.
- 12 (b) The city or urban-county government shall advertise the hearing by causing to
13 be published at least twice in two (2) consecutive weeks, in the newspaper of
14 largest circulation in the county, a display type advertisement of not less than
15 twelve (12) column inches, the following:
- 16 1. The tax rate levied in the preceding year, and the revenue produced by
17 that rate;
 - 18 2. The tax rate proposed for the current year and the revenue expected to be
19 produced by that rate;
 - 20 3. The compensating tax rate and the revenue expected from it;
 - 21 4. The revenue expected from new property and personal property;
 - 22 5. The general areas to which revenue in excess of the revenue produced in
23 the preceding year is to be allocated;
 - 24 6. A time and place for the public hearing which shall be held not less than
25 seven (7) days nor more than ten (10) days after the day the second
26 advertisement is published;
 - 27 7. The purpose of the hearing; and

1 8. A statement to the effect that the General Assembly has required
2 publication of the advertisement and the information contained therein.

3 (c) In lieu of the two (2) published notices, a single notice containing the required
4 information may be sent by first-class mail to each person owning real
5 property in the taxing district, addressed to the property owner at his residence
6 or principal place of business as shown on the current year property tax roll.

7 (d) The hearing shall be open to the public. All persons desiring to be heard shall
8 be given an opportunity to present oral testimony. The taxing district may set
9 reasonable time limits for testimony.

10 ~~[(3) (a) That portion of a tax rate levied by an action of a city or urban county~~
11 ~~government which will produce revenue from real property, exclusive of~~
12 ~~revenue from new property, more than four percent (4%) over the amount of~~
13 ~~revenue produced by the compensating tax rate defined in KRS 132.010 shall~~
14 ~~be subject to a recall vote or reconsideration by the taxing district, as provided~~
15 ~~for in KRS 132.017, and shall be advertised as provided for in paragraph (b)~~
16 ~~of this subsection.~~

17 ~~(b) The city or urban county government shall, within seven (7) days following~~
18 ~~adoption of an ordinance to levy a tax rate which will produce revenue from~~
19 ~~real property, exclusive of revenue from new property as defined in KRS~~
20 ~~132.010, more than four percent (4%) over the amount of revenue produced~~
21 ~~by the compensating tax rate defined in KRS 132.010, cause to be published,~~
22 ~~in the newspaper of largest circulation in the county, a display type~~
23 ~~advertisement of not less than twelve (12) column inches the following:~~

24 ~~1. The fact that the city or urban county government has adopted a rate;~~

25 ~~2. The fact that the part of the rate which will produce revenue from real~~
26 ~~property, exclusive of new property as defined in KRS 132.010, in~~
27 ~~excess of four percent (4%) over the amount of revenue produced by the~~

1 ~~compensating tax rate defined in KRS 132.010 is subject to recall, and~~
2 ~~3. The name, address, and telephone number of the county clerk of the~~
3 ~~county or urban county in which the taxing district is located, with a~~
4 ~~notation to the effect that that official can provide the necessary~~
5 ~~information about the petition required to initiate recall of the tax rate.]~~

6 ➔Section 59. KRS 132.029 is amended to read as follows:

7 (1) In the event that the tax rate applicable to real property levied by a city or urban-
8 county government will produce a percentage increase in revenue from personal
9 property less than the percentage increase in revenue from real property, the city or
10 urban-county government may levy a tax rate applicable to personal property which
11 will produce the same percentage increase in revenue from personal property as the
12 percentage increase in revenue from real property.

13 (2) The tax rate applicable to personal property levied by a city or urban-county
14 government under the provisions of subsection (1) of this section shall not be
15 subject to the public hearing provisions of KRS 132.027(2)~~[- and to the recall~~
16 ~~provisions of KRS 132.027(3)].~~

17 ➔Section 60. KRS 157.440 is amended to read as follows:

18 (1) (a) Notwithstanding any statutory provisions to the contrary, effective for school
19 years beginning after July 1, 1990, the board of education of each school
20 district may levy an equivalent tax rate as defined in subsection ~~(8) [(9)(a)]~~ of
21 KRS 160.470 which will produce up to fifteen percent (15%) of those
22 revenues guaranteed by the program to support education excellence in
23 Kentucky. The levy for the 1990-91 school year shall be made no later than
24 October 1, 1989, and no later than October 1, 1990, for the 1991-92 school
25 year, and by October 1 of each odd-numbered year thereafter. Effective with
26 the 1990-91 school year, revenue generated by this levy shall be equalized at
27 one hundred fifty percent (150%) of the statewide average per pupil

1 assessment.

2 (b) To participate in the Facilities Support Program of Kentucky, the board of
3 education of each school district shall commit at least an equivalent tax rate of
4 five cents (\$0.05) to debt service, new facilities, or major renovations of
5 existing school facilities, or the purchase of land if approved by the
6 commissioner of education as provided in KRS 157.420(4)(b). The five cents
7 (\$0.05) shall be in addition to the thirty cents (\$0.30) required by KRS
8 160.470~~(8)~~~~(9)~~ and any levy pursuant to paragraph (a) of this subsection. The
9 levy shall be made no later than October 1 of each odd-numbered year.
10 Eligibility for equalization funds for the biennium shall be based on the
11 district funds committed to debt service on that date. The five cents (\$0.05)
12 shall be equalized at one hundred fifty percent (150%) of the statewide
13 average per pupil assessment. The equalization funds shall be committed to
14 debt service to the greatest extent possible, but any excess equalization funds
15 not needed for debt service shall be deposited to a restricted building fund
16 account. The funds may be escrowed for future debt service or used to address
17 categorical priorities listed in the approved facilities plan pursuant to KRS
18 157.420.

19 (c) The board of education of each school district may contribute the levy
20 equivalent tax rate of five cents (\$0.05) and equalization funds for energy
21 conservation measures under guaranteed energy savings contracts pursuant to
22 KRS 45A.345, 45A.352, and 45A.353. Use of these funds, as provided under
23 KRS 45A.353, 56.774, and 58.600 shall be based on the following guidelines:

- 24 1. Energy conservation measures shall include facility alteration;
- 25 2. Energy conservation measures shall be identified in the district's
26 approved facility plan pursuant to KRS 157.420;
- 27 3. The current facility systems are consuming excess maintenance and

- 1 operating costs;
- 2 4. The savings generated by the energy conservation measures are
- 3 guaranteed;
- 4 5. The levy equivalent tax rate of five cents (\$0.05) and equalization funds
- 5 contributed to the energy conservation measures shall be defined as
- 6 capital cost avoidance as provided in KRS 45A.345(2) and shall be
- 7 subject to the restrictions on usage as specified in KRS 45A.352(9); and
- 8 6. The equipment that is replaced has exceeded its useful life as determined
- 9 by a life cycle cost analysis.
- 10 (d) The rate levied by a district board of education under the provisions of this
- 11 subsection shall not be subject to the public hearing provisions of KRS
- 12 160.470(7)~~or to the recall provisions of KRS 160.470(8)}~~.
- 13 (e) A school district which is at or above the equivalent tax rates permitted under
- 14 the provisions of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts
- 15 ch. 476, shall not be required to levy an equivalent tax rate which is lower
- 16 than the rate levied during the 1989-90 school year.
- 17 (2) (a) A district may exceed the maximum provided by subsection (1) of KRS
- 18 160.470 provided that, upon request of the board of education of the district,
- 19 the county board of elections shall submit to the qualified voters of the
- 20 district, in the manner of submitting and voting as prescribed in paragraph (b)
- 21 of this subsection, the question whether a rate which would produce revenues
- 22 in excess of the maximum provided by subsection (1) of KRS 160.470 shall
- 23 be levied. The rate that may be levied under this section may produce revenue
- 24 up to no more than thirty percent (30%) of the revenue guaranteed by the
- 25 program to support education excellence in Kentucky plus the revenue
- 26 produced by the tax authorized by this section. Revenue produced by this levy
- 27 shall not be equalized with state funds. If a majority of those voting on the

1 question favor the increased rate, the tax levying authority shall, when the
2 next tax rate for the district is fixed, levy a rate not to exceed the rate
3 authorized by the voters.

4 (b) The election shall be held not less than fifteen (15) or more than thirty (30)
5 days from the time the request of the board is filed with the county clerk, and
6 reasonable notice of the election shall be given. The election shall be
7 conducted and carried out in the school district in all respects as required by
8 the general election laws and shall be held by the same officers as required by
9 the general election laws. The expense of the election shall be borne by the
10 school district.

11 (3) For the 1966 tax year and for all subsequent years for levies which were approved
12 prior to December 8, 1965, no district board of education shall levy a tax at a rate
13 under the provisions of this section which exceeds the compensating tax rate as
14 defined in KRS 132.010, except as provided in subsection (4) of this section and
15 except that a rate which has been approved by the voters under this section but
16 which was not levied by the district board of education in 1965 may be levied after
17 it has been reduced to the compensating tax rate as defined in KRS 132.010, and
18 except that in any school district where the rate levied in 1965 was less than the
19 maximum rate which had been approved by the voters, the compensating tax rate
20 shall be computed and may be levied as though the maximum approved rate had
21 been levied in 1965 and the amount of revenue which would have been produced
22 from such maximum levy had been derived therefrom.

23 (4) Notwithstanding the limitations contained in subsection (3) of this section, no tax
24 rate shall be set lower than that necessary to provide such funds as are required to
25 meet principal and interest payments on outstanding bonded indebtedness and
26 payments of rentals in connection with any outstanding school revenue bonds issued
27 under the provisions of KRS Chapter 162.

1 (5) The chief state school officer shall certify the compensating tax rate to the levying
2 authorities.

3 ➔Section 61. KRS 160.470 is amended to read as follows:

4 (1) (a) Notwithstanding any statutory provisions to the contrary, no district board of
5 education shall levy a general tax rate which will produce more revenue,
6 exclusive of revenue from net assessment growth as defined in KRS 132.010,
7 than would be produced by application of the general tax rate that could have
8 been levied in the preceding year to the preceding year's assessment, except as
9 provided in subsection (8)~~subsections (9) and (10)~~ of this section and KRS
10 157.440.

11 (b) ~~If an election is held as provided for in KRS 132.017 and the question should~~
12 ~~fail, such failure shall not reduce the "...general tax rate that could have been~~
13 ~~levied in the preceding year..." referred to in subsection (1)(a) of this section,~~
14 ~~for purposes of computing the general tax rate for succeeding years.~~

15 ———}In the event of a merger of school districts, the limitations contained in this
16 section shall be based upon the combined revenue of the merging districts, as
17 computed under the provisions of this section.

18 (2) No district board of education shall levy a general tax rate within the limits imposed
19 in subsection (1) of this section which respectively exceeds the compensating tax
20 rate defined in KRS 132.010, except as provided in subsection (8)~~subsections (9)~~
21 ~~and (10)~~ of this section, KRS 157.440, and KRS 157.621, until the district board of
22 education has complied with the provisions of subsection (7) of this section.

23 (3) Upon receipt of property assessments from the Department of Revenue, the
24 commissioner of education shall certify the following to each district board of
25 education:

26 (a) The general tax rate that a district board of education could levy under the
27 provisions of subsection (1) of this section, and the amount of revenue

1 expected to be produced; and

2 (b) The compensating tax rate as defined in KRS 132.010 for a district's general
3 tax rate the amount of revenue expected to be produced[;

4 ~~(c) The general tax rate which will produce, respectively, no more revenue from~~
5 ~~real property, exclusive of revenue from new property, than four percent (4%)~~
6 ~~over the amount of revenue produced by the compensating tax rate defined in~~
7 ~~KRS 132.010, and the amount of revenue expected to be produced].~~

8 (4) Upon completion of action on property assessment data, the Department of Revenue
9 shall submit certified property assessment data as required in KRS 133.125 to the
10 chief state school officer.

11 (5) Within thirty (30) days after the district board of education has received its
12 assessment data, the rates levied shall be forwarded to the Kentucky Board of
13 Education for its approval or disapproval. The failure of the district board of
14 education to furnish the rates within the time prescribed shall not invalidate any
15 levy made thereafter.

16 (6) (a) Each district board of education shall, on or before January 31 of each
17 calendar year, formally and publicly examine detailed line item estimated
18 revenues and proposed expenditures for the subsequent fiscal year. On or
19 before May 30 of each calendar year, each district board of education shall
20 adopt a tentative working budget which shall include a minimum reserve of
21 two percent (2%) of the total budget.

22 (b) Each district board of education shall submit to the Kentucky Board of
23 Education no later than September 30, a close estimate or working budget
24 which shall conform to the administrative regulations prescribed by the
25 Kentucky Board of Education.

26 (7) (a) Except as provided in subsection (8)~~[subsections (9) and (10)]~~ of this section
27 and KRS 157.440, a district board of education proposing to levy a general tax

1 rate within the limits of subsection (1) of this section which exceed the
2 compensating tax rate defined in KRS 132.010 shall hold a public hearing to
3 hear comments from the public regarding the proposed tax rate. The hearing
4 shall be held in the principal office of the taxing district or, in the event the
5 taxing district has no office, or the office is not suitable for such a hearing, the
6 hearing shall be held in a suitable facility as near as possible to the geographic
7 center of the district.

8 (b) The district board of education shall advertise the hearing by causing the
9 following to be published at least twice for two (2) consecutive weeks, in the
10 newspaper of largest circulation in the county, a display type advertisement of
11 not less than twelve (12) column inches:

- 12 1. The general tax rate levied in the preceding year, and the revenue
13 produced by that rate;
- 14 2. The general tax rate for the current year, and the revenue expected to be
15 produced by that rate;
- 16 3. The compensating general tax rate, and the revenue expected from it;
- 17 4. The revenue expected from new property and personal property;
- 18 5. The general areas to which revenue in excess of the revenue produced in
19 the preceding year is to be allocated;
- 20 6. A time and place for the public hearing which shall be held not less than
21 seven (7) days nor more than ten (10) days after the day that the second
22 advertisement is published;
- 23 7. The purpose of the hearing; and
- 24 8. A statement to the effect that the General Assembly has required
25 publication of the advertisement and the information contained herein.

26 (c) In lieu of the two (2) published notices, a single notice containing the required
27 information may be sent by first-class mail to each person owning real

1 property, addressed to the property owner at his residence or principal place of
2 business as shown on the current year property tax roll.

3 (d) The hearing shall be open to the public. All persons desiring to be heard shall
4 be given an opportunity to present oral testimony. The district board of
5 education may set reasonable time limits for testimony.

6 (8) (a) ~~That portion of a general tax rate, except as provided in subsections (9) and~~
7 ~~(10) of this section, KRS 157.440, and KRS 157.621, levied by an action of a~~
8 ~~district board of education which will produce, respectively, revenue from real~~
9 ~~property, exclusive of revenue from new property, more than four percent~~
10 ~~(4%) over the amount of revenue produced by the compensating tax rate~~
11 ~~defined in KRS 132.010, shall be subject to a recall vote or reconsideration by~~
12 ~~the district board of education as provided for in KRS 132.017, and shall be~~
13 ~~advertised as provided for in paragraph (b) of this subsection.~~

14 (b) ~~The district board of education shall, within seven (7) days following adoption~~
15 ~~of an ordinance, order, resolution, or motion to levy a general tax rate, except~~
16 ~~as provided in subsections (9) and (10) of this section and KRS 157.440,~~
17 ~~which will produce revenue from real property, exclusive of revenue from~~
18 ~~new property as defined in KRS 132.010, more than four percent (4%) over~~
19 ~~the amount of revenue produced by the compensating tax rate defined in KRS~~
20 ~~132.010, cause the following to be published, in the newspaper of largest~~
21 ~~circulation in the county, a display type advertisement of not less than twelve~~
22 ~~(12) column inches:~~

- 23 1. ~~The fact that the district board of education has adopted such a rate;~~
24 2. ~~The fact that the part of the rate which will produce revenue from real~~
25 ~~property, exclusive of new property as defined in KRS 132.010, in~~
26 ~~excess of four percent (4%) over the amount of revenue produced by the~~
27 ~~compensating tax rate defined in KRS 132.010 is subject to recall; and~~

1 3. ~~The name, address, and telephone number of the county clerk of the~~
2 ~~county or urban county in which the school district is located, with a~~
3 ~~notation to the effect that that official can provide the necessary~~
4 ~~information about the petition required to initiate recall of the tax rate.~~

5 ~~(9) — (a)~~ Notwithstanding any statutory provisions to the contrary, effective for school
6 years beginning after June 30, 1990, the board of education of each school
7 district shall levy a minimum equivalent tax rate of thirty cents (\$0.30) for
8 general school purposes. "Equivalent tax rate" means ~~[is defined as]~~ the rate
9 which results when the income collected during the prior year from all taxes
10 levied by the district for school purposes is divided by the total assessed value
11 of property plus the assessment for motor vehicles certified by the Department
12 of Revenue. School districts collecting school taxes authorized by KRS
13 160.593 to 160.597, 160.601 to 160.633, or 160.635 to 160.648 for less than
14 twelve (12) months during a school year shall have included in income
15 collected under this section the pro rata tax collection for twelve (12) months.

16 (b) If a board fails to comply with paragraph (a) of this subsection, its members
17 shall be subject to removal from office for willful neglect of duty pursuant to
18 KRS 156.132.

19 ~~[(10) A district board of education may levy a general tax rate that will produce revenue~~
20 ~~from real property, exclusive of revenue from new property, that is four percent~~
21 ~~(4%) over the amount of the revenue produced by the compensating tax rate as~~
22 ~~defined in KRS 132.010.]~~

23 ➔Section 62. KRS 160.473 is amended to read as follows:

24 (1) In the event that a general tax rate applicable to real property levied by a district
25 board of education will produce a percentage increase in revenue from personal
26 property less than the percentage increase in revenue from real property, the district
27 board of education may levy a general tax rate applicable to personal property

1 which will produce the same percentage increase in revenue from personal property
2 as the percentage increase in revenue from real property; however, in no event shall
3 the general tax rate levied by the district board of education applicable to personal
4 property exceed the prior year general tax rate applicable to personal property levied
5 by the respective district board of education.

6 (2) The general tax rate applicable to personal property levied by a district board of
7 education under the provisions of subsection (1) of this section shall not be subject
8 to the public hearing provisions of KRS 160.470(7)~~and to the recall provisions of~~
9 ~~KRS 160.470(8)]~~.

10 ➔Section 63. KRS 67C.147 is amended to read as follows:

11 (1) In order to maintain the tax structure, tax rates, or level of services in the area of the
12 consolidated local government formerly comprising the city of the first class, the
13 legislative council of a consolidated local government may provide in the manner
14 described in this chapter for taxes and services within the area comprising the
15 former city of the first class which are different from the taxes and services which
16 are applicable in the remainder of the county. These differences may include
17 differences in tax rates upon the class of property which includes the surface of the
18 land, differences in ad valorem tax rates upon personal property, and differences in
19 tax rates upon insurance premiums.

20 (2) Any difference in the ad valorem tax rate on the class of property which includes
21 the surface of the land in the portion of the county formerly comprising the city of
22 the first class and in the portion of the county other than that formerly comprising
23 the city of the first class may be imposed directly by the consolidated local
24 government council. Any change in these ad valorem tax rates shall comply with
25 KRS 68.245, 132.010,~~132.017,~~ and 132.027 and shall be used for services as
26 provided by KRS 82.085.

27 (3) If the consolidated local government council determines to provide for tax rates

1 applicable to health insurance premiums and personal property which are different
2 in the area formerly comprising the city of the first class than the rates applicable in
3 the remainder of the county, it shall do so in the following manner. The
4 consolidated local government council shall by ordinance create a tax district to be
5 known as the "urban service tax district" bounded by the former boundaries of the
6 former city of the first class. The ordinance shall designate the number of members
7 of the board of this taxing district and the manner in which they shall be appointed.
8 The ordinance shall provide that the board of the taxing district shall receive the
9 income derived from the differential in tax rate applicable in the area formerly
10 comprising the city of the first class with respect to personal property, health
11 insurance premiums, or both, and shall contract with the consolidated local
12 government to pay all sums collected to the consolidated local government, in
13 return for the provision of services performed by the consolidated local government
14 within the area formerly comprising the city of the first class which services are in
15 addition to services performed by the consolidated local government in the
16 remainder of the county.

17 (4) After the initial formation of an urban service taxing district in a consolidated local
18 government, the boundaries of the district may be modified in the following
19 manner. The proposal to alter the boundaries of the urban service taxing district
20 within a consolidated local government may be initiated by:

- 21 (a) A resolution enacted by the consolidated local government describing the
22 boundaries of the area to be added to or deleted from the taxing district and
23 duly passed and signed by the mayor not less than one hundred twenty (120)
24 days before the next regularly scheduled election day within the county; or
25 (b) A petition signed by a number of qualified voters living within precincts
26 within the area to be added to or deleted from the taxing district equal to ten
27 percent (10%) of the votes cast within each precinct in the last general election

1 for President of the United States and delivered to the clerk of the legislative
2 council more than one hundred twenty (120) days next preceding the next
3 regularly scheduled election day within the county.

4 The boundaries so described in either case shall not cross precinct lines. The
5 question of whether the area bounded as described should be added to or deleted
6 from, as the case may be, the urban services taxing district shall then be placed upon
7 the ballot in the precincts in the area to be added or deleted at the next regular
8 election and the question stated on the ballot shall be so phrased that a "Yes" vote
9 shall be cast in favor of making the proposed change and a "No" vote shall be cast
10 to oppose the proposed change. If a majority of those voting in those precincts
11 support the change, then the change in the boundaries of the urban service district
12 shall be implemented.

13 ➔Section 64. KRS 78.530 is amended to read as follows:

14 (1) (a) Each county and school board, as defined in KRS 78.510, will participate in
15 the system by appropriate order authorizing such participation which has been
16 entered and duly recorded in the records of the governing body of the county
17 or school board. In cases where general purpose county government does not
18 participate, but the sheriff and his employees or the county clerk and his
19 employees do, the sheriff or the clerk shall retain the order in his office. The
20 authority to issue and properly record such order of participation being hereby
21 granted, permits such county to participate in the system. The effective date of
22 such participation shall be fixed in the order.

23 (b) Notwithstanding any statute to the contrary, after April 9, 2002, the systems
24 shall deny the request for participation of any agency which does not have an
25 irrevocable contract with the state Personnel Cabinet for health insurance
26 coverage under KRS 18A.225 to 18A.229 for its active employees, except
27 that:

- 1 1. County governments entering the system between April 9, 2002, and
2 July 1, 2003, under this section shall be excluded from this requirement;
3 and
4 2. Agencies entering the system on or after April 9, 2002, which were
5 established by a merger or an interlocal agreement to provide public
6 services shall be excluded from this requirement if all agencies entering
7 into the merger or interlocal agreement had an initial participation date
8 with the system prior to April 9, 2002.
- 9 (2) Once a county or school board participates, it shall thereafter continue to
10 participate, except as provided in KRS 78.535.
- 11 (3) (a) Concurrent with the adoption of the appropriate resolution to participate in the
12 system, a county may elect the alternate participation plan which will require
13 the county to purchase on behalf of each employee electing coverage, at the
14 time the county elected to participate in the system as provided under KRS
15 78.540(2), current service credit for employment in regular full-time positions
16 between July 1, 1958, and the participation date of the county. Cities which
17 participate in the system pursuant to subsection (6) of this section, KRS
18 79.080, 90.400, 90.410, 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180
19 shall be required to purchase on behalf of each employee electing coverage
20 only as much service credit as the employee has accumulated in the city-
21 administered plan, up to the participation date of the city. Accumulated
22 service shall include service for which an employee received a refund
23 pursuant to KRS 95.620 or 95.866, if such refund has been repaid. If the
24 employee has not yet repaid the refund, he may make payment to the system
25 by any method acceptable to the system, and the requirement of five (5) years
26 of continuous reemployment prior to repayment of refunds shall not apply.
27 Upon the employee's repayment, the city shall purchase the associated service

1 credit for the employee. Cost of such service credit over and above that which
2 would be funded within the existing employer contribution rate shall be
3 determined by the board's consulting actuary. The expense of such actuarial
4 service shall be paid by the county;

5 (b) The county shall establish a payment schedule subject to approval by the
6 board for payment of the cost of such service over and above that which
7 would be funded within the existing employer contribution rate. The
8 maximum period allowed in a payment schedule shall be thirty (30) years,
9 with interest at the rate actuarially assumed by the board. A shorter period is
10 desirable and the board may approve any payment schedule provided it is not
11 longer than a thirty (30) year period, except that cities which participate in the
12 system pursuant to subsection (6) of this section, KRS 79.080, 90.400, 90.410,
13 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 may, at their option, extend
14 the payment schedule to a maximum of thirty (30) years, may choose to make
15 level payments at the interest rate actuarially assumed by the board over the
16 life of the payment schedule chosen, and may retain employer contributions
17 and the earnings thereon attributable to employees electing coverage;

18 (c) A city entering the system under the alternate participation plan, may, by
19 ordinance, levy a special property tax to pay for current service credit
20 purchased for the period between July 1, 1958, and the participation date of
21 the city. The special tax shall be to pay, within a period of no more than
22 fifteen (15) years, for the cost of such service credit over that which would be
23 funded within the existing employer contribution rate, as determined by the
24 board's consulting actuary. The reason for levying the special tax and the
25 disposition of the proceeds shall be part of the ordinance levying the tax. The
26 special tax shall be rescinded when the unfunded prior service liability has
27 been amortized, and shall not be subject to the provisions of KRS~~132.017~~

1 ~~or~~ 132.027. In addition, the city may maintain any tax, the proceeds of which
2 had been devoted to funding pension obligations under the locally
3 administered plan prior to participation in the system, for the purpose of
4 funding current service costs incurred after the date of participation. The city
5 may increase the tax to pay current service costs which exceed the local
6 pension system costs to which the tax had been devoted, but the city shall not
7 collect from the tax more revenues than are necessary to pay current service
8 costs incurred after the date of participation. The city may continue the tax so
9 long as it participates in the system, and the tax shall not be subject to the
10 provisions of KRS~~132.017 or~~ 132.027. The city shall not collect either tax
11 authorized by this paragraph if its participation has been terminated pursuant
12 to KRS 61.522;

- 13 (d) The county may at a later date purchase current service credit from July 1,
14 1958, to the participation date of the county by alternate participation plan for
15 those employees who rejected membership in the system at the time the
16 county first participated. In addition, the employer shall pay the employer
17 contributions on the creditable compensation of the employees who later elect
18 membership from the participation date of the county to the date the member
19 elects participation. The employee shall pay the employee contributions on his
20 creditable compensation from the participation date of the county to the date
21 he elects membership plus interest at the current actuarial rate compounded
22 annually on the employee and employer contributions. Cost of the service
23 credit over and above that which would be funded within the existing
24 employer contribution rate shall be determined by the board's consulting
25 actuary. The expense of the actuarial service shall be paid by the county. The
26 county shall pay the cost of the service by lump sum or by adding it to the
27 existing payment schedule established under paragraph (b) of this subsection;

- 1 (e) A county which did not participate by alternate participation may, until July 1,
2 1991, purchase current service credit for those employees who rejected
3 membership in the system at the time the county first participated. The
4 employer shall pay the employer contributions on the creditable compensation
5 of the employees who later elect membership from the participation date of
6 the county to the date the member elects participation. The employee shall pay
7 the employee contributions on his creditable compensation from the
8 participation date of the county to the date he elects membership plus interest
9 at the current actuarial rate compounded annually on the employee and
10 employer contributions. The county shall pay the cost of the service credit by
11 lump sum or by establishing a payment schedule under paragraph (b) of this
12 subsection; and
- 13 (f) A county which participated in the system but did not elect the alternate
14 participation plan may at a later date elect the alternate participation plan. In
15 this case, the county shall purchase on behalf of each employee participating
16 in the system current service credit for employment in regular full-time
17 positions between July 1, 1958, or a later date selected by the county
18 government, and the participation date of the county. The county shall also
19 purchase, for employees who decide to participate when the county elects the
20 alternate participation plan, current service credit for employment in regular
21 full-time positions between July 1, 1958, or the later date selected by the
22 county government, and the participation date of the county. In addition, the
23 county shall pay the employer contributions on the creditable compensation of
24 the employees who later elect membership from the participation date of the
25 county to the date the member elects participation. The employee shall pay the
26 employee contributions on his creditable compensation from the participation
27 date of the county to the date he elects membership plus interest at the current

1 actuarial rate compounded annually on the employee and employer
2 contributions. Cost of the service credit over that which would be funded
3 within the existing employer contribution rate shall be determined by the
4 board's consulting actuary. The expense of the actuarial service shall be paid
5 by the county. The county shall pay the cost of the service by lump sum or by
6 a payment schedule established under paragraph (b) of this subsection.

7 (g) Notwithstanding any other provision of the Kentucky Revised Statutes to the
8 contrary, this subsection shall not apply to members who begin participating
9 in the system on or after January 1, 2014, and no county that elects to
10 participate in the system on or after January 1, 2014, shall be eligible to
11 participate under the alternate participation plan.

12 (4) Every school board not participating on June 21, 1974, shall enact a resolution of
13 participation no later than July 1, 1976.

14 (5) The order of the governing body of a county, as provided for in subsection (1) of
15 this section, may exclude from participation in the system hospitals and any other
16 semi-independent agency. Each such excluded agency shall be identified in the
17 order authorizing participation and such excluded agency may participate in the
18 system as a separate agency.

19 (6) (a) After August 1, 1988, except as permitted by KRS 65.156, no local
20 government retirement system shall be created pursuant to KRS 70.580 to
21 70.598 and any local government retirement systems created pursuant to KRS
22 79.080, 90.400, 90.410, 95.768, and KRS Chapter 96 shall be closed to new
23 members. New employees who would have been granted membership in such
24 retirement systems shall instead be granted membership in the County
25 Employees Retirement System. Employees who would have been granted
26 membership in retirement systems created pursuant to KRS 95.768, or any
27 other policemen or firefighters who would have been granted membership in

1 retirement systems created pursuant to KRS 79.080, 90.400, or 90.410, or any
2 such policemen or firefighter members employed on or prior to August 1,
3 1988, who transfer to the County Employees Retirement System, shall be
4 certified by their employers as working in hazardous positions. Each city
5 participating in the County Employees Retirement System pursuant to this
6 subsection shall execute the appropriate order authorizing such participation,
7 shall select the alternate participation plan as described in subsection (3) of
8 this section, and shall pay for the actuarial services necessary to determine the
9 additional costs of alternate participation. Cities which closed their local
10 pension systems to new members and participated in the system prior to July
11 15, 1988, whose employees at the time of transition were given the option to
12 join the system shall not be required to offer said employees a second option
13 to join the system.

14 (b) Notwithstanding any statute to the contrary, after April 9, 2002, the systems
15 shall deny the request for participation of any agency which does not have an
16 irrevocable contract with the state Personnel Cabinet for health insurance
17 coverage under KRS 18A.225 to 18A.229 for its active employees, except that
18 agencies entering the system on or after April 9, 2002, which were established
19 by a merger or an interlocal agreement to provide public services shall be
20 excluded from this requirement if all agencies entering into the merger or
21 interlocal agreement had an initial participation date with the system prior to
22 April 9, 2002.

23 (7) Any city which closed a police and firefighter pension plan to new members
24 between January 1, 1988, and July 15, 1988, and participated in the system under
25 the alternate participation plan shall, if its police and firefighters were not covered
26 by Social Security, or any city which operates a pension under KRS 90.400 or
27 90.410, shall be required to certify that its police and firefighters are working in

1 hazardous positions, and shall offer its police and firefighters in service at the time
2 of entry a second option to participate under hazardous duty coverage if they were
3 not offered hazardous duty coverage at the time of their first option. The provisions
4 of subsection (3)(b) of this section notwithstanding, a city affected by this
5 subsection may, at its option, extend its payment schedule to the County Employees
6 Retirement System for alternate participation to thirty (30) years at the rate
7 actuarially assumed by the board.

8 ➔Section 65. KRS 342.340 is amended to read as follows:

9 (1) Every employer under this chapter shall:

10 (a) Insure and keep insured its liability for compensation in some corporation,
11 association, or organization authorized to transact the business of workers'
12 compensation insurance in this state; or

13 (b) Furnish to the commissioner satisfactory proof of its financial ability to pay
14 directly the compensation in the amount and manner and when due as
15 provided in this chapter. In this case, the commissioner shall require the
16 deposit of an acceptable security, indemnity, or bond to secure, to the extent
17 the commissioner directs, the payment of compensation liabilities as they are
18 incurred. A public sector self-insured employer shall not be required to
19 deposit funds as security, indemnity, or bond to secure the payment of
20 liabilities under this chapter, if the public employer has authority to raise taxes
21 ~~or[, notwithstanding provisions of KRS 68.245, 132.023, 132.027, and~~
22 ~~160.470 relating to recall and reconsideration of local taxes; raise tuition;~~
23 ~~issue bonds;]~~ raise fees or fares for services provided, ~~[-;]~~ or has other authority
24 to generate funds for its operation.

25 (2) Every employer subject to this chapter shall file, or have filed on its behalf, with the
26 department, as often as may be necessary, evidence of its compliance with the
27 provisions of this section and all others relating hereto. Any insurance carrier or

1 self-insured group providing workers' compensation insurance coverage for a
2 Kentucky location shall file on behalf of the employer, with the commissioner,
3 evidence of the employer's compliance with this chapter. Evidence of compliance
4 filed with the department may include a named additional insured who has been
5 provided proof of workers' compensation insurance coverage by the employer. The
6 filing shall be made within ten (10) days after the issuance of a policy, endorsement
7 to a policy, or similar documentation of coverage. Every employer who has
8 complied with the foregoing provision and has subsequently canceled its insurance
9 or its membership in an approved self-insured group, as the case may be, shall
10 immediately notify, or have notice given on its behalf to the department of the
11 cancellation, the date, and the reasons; and every insurance carrier or self-insured
12 group shall in like manner notify the commissioner upon the cancellation, lapse,
13 termination, expiration by reason of termination of policy period, or nonrenewal of
14 any policy issued by it or termination of any membership agreement, whichever is
15 applicable under the provisions of this chapter, except that the carrier or self-insured
16 group need not set forth its reasons unless requested by the commissioner. The
17 above filings are to be made on the forms prescribed by the commissioner.
18 Termination of any policy of insurance issued under the provisions of this chapter
19 shall take effect no greater than ten (10) days prior to the receipt of the notification
20 by the commissioner unless the employer has obtained other insurance and the
21 commissioner is notified of that fact by the insurer assuming the risk. Upon
22 determination that any employer under this chapter has failed to comply with these
23 provisions, the commissioner shall promptly notify interested government agencies
24 of this failure and, with particular reference to employers engaged in coal mining,
25 the commissioner shall promptly report any failures to the Department for Natural
26 Resources so that appropriate action may be undertaken pursuant to KRS 351.175.

27 ➔Section 66. KRS 134.810 is amended to read as follows:

- 1 (1) All state, county, city, urban-county government, school, and special taxing district
2 ad valorem taxes shall be due and payable on or before the earlier of the last day of
3 the month in which registration renewal is required by law for a motor vehicle
4 renewed or the last day of the month in which a vehicle is transferred.
- 5 (2) All state, county, city, urban-county government, school, and special taxing district
6 ad valorem taxes due on motor vehicles shall become delinquent following the
7 earlier of the end of the month in which registration renewal is required by law or
8 the last day of the second calendar month following the month in which a vehicle
9 was transferred.
- 10 (3) Any taxes which are paid within thirty (30) days of becoming delinquent shall be
11 subject to a penalty of three percent (3%) on the taxes due. However, this penalty
12 shall be waived if the tax bill is paid within five (5) days of the tax bill being
13 declared delinquent. Any taxes which are not paid within thirty (30) days of
14 becoming delinquent shall be subject to a penalty of ten percent (10%) on the taxes
15 due. In addition, interest at an annual rate of fifteen percent (15%) shall accrue on
16 said taxes and penalty from the date of delinquency. A penalty or interest shall not
17 accrue on a motor vehicle under dealer assignment pursuant to KRS 186A.220.
- 18 (4) When a motor vehicle has been transferred before registration renewal or before
19 taxes due have been paid, the owner pursuant to KRS 186.010(7)(a) and (c) on
20 January 1 of any year shall be liable for the taxes on the motor vehicle, except as
21 hereinafter provided.
- 22 (5) If an owner obtains a certificate of registration for a motor vehicle valid through the
23 last day of his second birth month following the month and year in which he applied
24 for a certificate of registration, all state, county, city, urban-county government,
25 school, and special tax district ad valorem tax liabilities arising from the assessment
26 date following initial registration shall be due and payable on or before the last day
27 of the first birth month following the assessment date or date of transfer, whichever

1 is earlier. Any taxes due under the provisions of this subsection and not paid as set
2 forth above shall be considered delinquent and subject to the same interest and
3 penalties found in subsection (3) of this section.

4 (6) For purposes of the state ad valorem tax only, all motor vehicles:

5 (a) Held for sale by a licensed motor vehicle dealer, including licensed motor
6 vehicle auction dealers;

7 (b) That are in the possession of a licensed motor vehicle dealer, including
8 licensed motor vehicle auction dealers, for sale, although ownership has not
9 been transferred to the dealer; and

10 (c) With a salvage title held by an insurance company;

11 on January 1 of any year shall not be taxed as a motor vehicle pursuant to KRS
12 132.485 but shall be subject to ad valorem tax as goods held for sale in the regular
13 course of business under the provisions of KRS 132.020(1)(e)[~~(n)~~] and 132.220.

14 (7) Any provision to the contrary notwithstanding, when any ad valorem tax on a motor
15 vehicle becomes delinquent, the state and each county, city, urban-county
16 government, or other taxing district shall have a lien on all motor vehicles owned or
17 acquired by the person who owned the motor vehicle at the time the tax liability
18 arose. A lien for delinquent ad valorem taxes shall not attach to any motor vehicle
19 transferred while the taxes are due on that vehicle. For the purpose of delinquent ad
20 valorem taxes on leased vehicles only, a lien on a leased vehicle shall not be
21 attached to another vehicle owned by the lessor.

22 (8) The lien required by subsection (7) of this section shall be filed and released by the
23 automatic entry of appropriate information in the AVIS database. For the filing and
24 release of each lien or set of liens arising from motor vehicle ad valorem property
25 tax delinquency, a fee of two dollars (\$2) pursuant to this section shall be added to
26 the delinquent tax account. The fee shall be collected and retained by the county
27 clerk who collects the delinquent tax.

1 (9) The implementation of the automated lien system provided in this section shall not
2 affect the manner in which commercial liens are recorded or released.

3 ➔Section 67. KRS 157.621 is amended to read as follows:

4 (1) In addition to the levy required by KRS 157.440(1)(b) to participate in the Facilities
5 Support Program of Kentucky, local school districts that have made the levy
6 required by KRS 157.440(1)(b) are authorized to levy the following additional
7 equivalent rates to support debt service, new facilities, or major renovations of
8 existing school facilities, which levies shall not be subject to recall under any
9 provision of the Kentucky Revised Statutes, or to voter approval under the
10 provisions of KRS 157.440(2):

11 (a) 1. Prior to April 24, 2008, local school districts that have experienced
12 student population growth during a five (5) year period may levy an
13 additional five cents (\$0.05) equivalent rate for debt service and new
14 facilities. The tax rate levied by the district under this provision shall not
15 be equalized by state funding, except as provided in paragraph (b) of this
16 subsection. Any levy imposed under this paragraph prior to April 24,
17 2008, by a local school district shall continue until removed by the local
18 school district.

19 2. A local school district shall meet the following criteria in order to levy
20 the tax provided in subparagraph 1. of this paragraph:

21 a. Growth of at least one hundred fifty (150) students in average daily
22 attendance and three percent (3%) overall growth for the five (5)
23 preceding years;

24 b. Bonded debt to the maximum capability of at least eighty percent
25 (80%) of capital outlay from the Support Education Excellence in
26 Kentucky funding program, all revenue from the local facility tax,
27 and all receipts from state equalization on the local facility tax;

- 1 c. Current student enrollment in excess of available classroom space;
2 and
- 3 d. A local school facility plan that has been approved by the
4 Kentucky Board of Education and certified to the School Facilities
5 Construction Commission;
- 6 (b) 1. In addition to the levy authorized by paragraph (a) of this subsection, a
7 local school district may levy an additional five cents (\$0.05) equivalent
8 rate under the same terms and conditions established by paragraph (a) of
9 this subsection beginning in fiscal year 2003-2004 if the levy was made
10 prior to April 24, 2008, and if the local school district:
- 11 a. Levied the five cents (\$0.05) equivalent rate authorized by
12 paragraph (a) of this subsection; and
- 13 b. Still meets the requirements established by paragraph (a)2. of this
14 subsection.
- 15 2. Any school district that imposes both the levy authorized by paragraph
16 (a) of this subsection and the additional levy authorized by subparagraph
17 1. of this paragraph shall receive equalization funding from the state for
18 the levy imposed by paragraph (a) of this subsection beginning in fiscal
19 year 2003-2004. Equalization shall be provided at one hundred fifty
20 percent (150%) of the statewide average per pupil assessment, subject to
21 the provision of funding by the General Assembly. Equalization funds
22 shall be used as provided in KRS 157.440(1)(b).
- 23 3. Any levy imposed under this paragraph prior to April 24, 2008, by a
24 local school district shall continue until removed by the local school
25 district; and
- 26 (c) 1. A local school district that meets the following conditions may levy an
27 additional five cents (\$0.05) equivalent rate on and after April 24, 2008:

- 1 a. The local school district is located in a county that will have more
2 students as a direct result of the new mission established for Fort
3 Knox by the Base Realignment and Closure (BRAC) 2005 issued
4 by the United States Department of Defense pursuant to the
5 Defense Base Closure and Realignment Act of 1990, Pub. L. No.
6 100-526, Part A of Title XXIX of 104 Stat. 1808, 10 U.S.C. sec.
7 2687 note; and
- 8 b. The commissioner of education has determined, based upon the
9 presentation of credible data, that the projected increased number
10 of students is sufficient to require new facilities or the major
11 renovation of existing facilities to accommodate the new students,
12 and has approved the imposition of the additional levy.
- 13 2. Any local school district that imposes both the levy authorized by
14 paragraph (a) of this subsection and the additional levy authorized by
15 subparagraph 1. of this paragraph, and that has not received equalization
16 funding under subsection (2) or (3) of this section, shall receive
17 equalization funding from the state for the levy imposed by paragraph
18 (a) of this subsection beginning in the fiscal year following the fiscal
19 year in which the levy authorized by subparagraph 1. of this paragraph is
20 imposed. Equalization shall be provided at one hundred fifty percent
21 (150%) of the statewide average per pupil assessment, subject to the
22 provision of funding by the General Assembly. Equalization funds shall
23 be used as provided in KRS 157.440(1)(b).
- 24 3. Any levy imposed under this paragraph by a local school district shall
25 continue until removed by the local school district.
- 26 (2) (a) Any local school district that, prior to April 27, 2016, levied an equivalent rate
27 that:

- 1 1. Was subject to recall at the time it was levied; and
- 2 2. Included a rate of at least five cents (\$0.05) equivalent rate for the
- 3 purpose of debt service for school construction or major renovation of
- 4 existing school facilities;
- 5 shall be eligible for retroactive equalization from the state for that levy at one
- 6 hundred fifty percent (150%) of the statewide average per pupil assessment
- 7 beginning in fiscal year 2003-2004, subject to the fiscal condition of the
- 8 Commonwealth and the provision of funding by the General Assembly.
- 9 Equalization funds shall be used as provided in KRS 157.440(1)(b).
- 10 (b) It is the intent of the General Assembly that for levies described in this
- 11 subsection that are imposed on or after April 27, 2016, equalization funds, if
- 12 provided by the General Assembly, shall terminate upon the earlier of June
- 13 30, 2038, or the date the bonds for the local school district supported by this
- 14 equalization funding are retired. Equalization shall be subject to the fiscal
- 15 condition of the Commonwealth and the provision of funding by the General
- 16 Assembly.
- 17 (3) Any local school district that:
- 18 (a) Levied an equivalent tax rate as of April 24, 2008, that included at least ten
- 19 cents (\$0.10) that was devoted to building purposes, or that had debt service
- 20 corresponding to a ten cents (\$0.10) equivalent rate;
- 21 (b) Did not receive equalized growth funding pursuant to subsection (1)(b)2. of
- 22 this section; and
- 23 (c) Has been approved by the commissioner of education;
- 24 shall be eligible for equalization from the state for that levy at one hundred fifty
- 25 percent (150%) of the statewide average per pupil assessment beginning in fiscal
- 26 year 2005-2006, subject to the provision of funding by the General Assembly.
- 27 Equalization funds shall be used as provided in KRS 157.440(1)(b). Equalization

1 funds shall be available to a local school district pursuant to this subsection until the
2 earlier of June 30, 2025, or the date the bonds for the local school district supported
3 by this equalization funding are retired.

4 (4) (a) Notwithstanding any other provision of this section, any local school district
5 receiving equalization funding prior to April 27, 2016, related to an equivalent
6 rate levy described in subsection (1), (2), (3), or (5) of this section shall
7 continue to receive the equalization funding related to the applicable
8 equivalent rate levy, subject to the limitations established by subsections (1),
9 (2), (3), and (5) of this section, and subject to the fiscal condition of the
10 Commonwealth and the provision of funding by the General Assembly, until
11 amended by subsequent action of the General Assembly. A local school
12 district described in this paragraph shall not be eligible to receive equalization
13 for any additional equivalent rate levies made by it on or after April 27, 2016.

14 (b) Notwithstanding any other provision of this section, any local school district
15 that has imposed an equivalent rate levy described in subsection (1)(a) or (b)
16 or (2) of this section prior to April 27, 2016, that qualifies for equalization but
17 that has not yet received equalization funding shall be eligible for equalization
18 funding as provided in subsection (1)(a) or (b) or (2) of this section, subject to
19 the provision of funding by the General Assembly.

20 (c) On and after April 24, 2008, a local school district not included in paragraph
21 (a) or (b) of this subsection shall be prohibited from imposing an equivalent
22 rate levy under the provisions of subsection (1)(a) or (b) of this section, and
23 shall not be eligible for equalization funding under the provisions of this
24 section.

25 (d) On and after April 24, 2008, a local school district meeting the requirements
26 of subsection (1)(c) of this section may impose the levy authorized by
27 subsection (1)(c) of this section, and shall qualify for equalization as provided

1 in subsection (1)(c) of this section, subject to the provision of funding by the
2 General Assembly.

3 (5) (a) Any local school district that:

4 1. Had school facilities classified as Category 5 on May 18, 2010, by the
5 Kentucky Department of Education; and

6 2. Levied an additional five cents (\$0.05) equivalent tax rate prior to April
7 27, 2016, for debt service, new construction, and major renovation
8 beyond the five cents (\$0.05) equivalent tax rate required by KRS
9 157.440(1)(b), except as provided in paragraph (b) of this subsection;

10 shall be eligible for equalization from the state for that levy at one hundred
11 fifty percent (150%) of the statewide average per pupil assessment beginning
12 in the fiscal year following the fiscal year in which the levy was imposed.†

13 ~~This levy shall be subject to the recall provisions of KRS 132.017.~~

14 (b) School districts that levied a five cents (\$0.05) equivalent tax rate for debt
15 service, new construction, and major renovation, beyond the rate required by
16 KRS 157.440(1)(b) prior to May 18, 2010, shall not be required to levy an
17 additional tax to receive the equalization funds provided in paragraph (a) of
18 this subsection.

19 (c) If the school district utilizes the equalization funds to support a bond issue for
20 construction purposes, equalization funds shall be provided until the earlier of
21 twenty (20) years or date the bonds are retired.

22 (d) In the event that a school district receives funding pursuant to this subsection
23 to support construction of a new school facility and subsequently, as a result
24 of litigation, receives funding for the same facility for which state funds were
25 provided, that school district shall reimburse the Commonwealth an amount
26 equal to the amount provided under paragraph (a) of this subsection. Any
27 funds received in this manner shall be deposited in the budget reserve trust

1 fund account established in KRS 48.705.

2 ➔Section 68. The following KRS sections are repealed:

3 132.017 Recall petition -- Requirements and procedures -- Reconsideration -- Election --
4 Second billing.

5 132.018 Reduction of tax rate on personal property.

6 132.025 Cumulative increase for 1982-83 only by taxing district -- Limit -- Public
7 hearing and recall provisions not applicable.

8 132.720 Definitions for KRS 132.260 and 132.751.

9 143A.035 Credit against tax imposed on severed or processed limestone.

10 243.710 Wholesaler's tax on distilled spirits.

11 ➔Section 69. Section 1 of this Act applies to deaths occurring on or after August
12 1, 2017.

13 ➔Section 70. Sections 16 to 18 of this Act apply for tax years beginning on or
14 after January 1, 2018.

15 ➔Section 71. Sections 22, 23, and 46 to 65 of this Act apply to assessments made
16 and rates established on and after January 1, 2018.

17 ➔Section 72. Section 28 of this Act applies to dates of death occurring on or after
18 January 1, 2018.

19 ➔Section 73. Section 21 of this Act takes effect August 1, 2017.

20 ➔Section 74. Sections 35 to 44 of this Act take effect October 1, 2017.