

1 AN ACT relating to inheritance and estate taxes.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 140 IS CREATED TO
4 READ AS FOLLOWS:

5 *The taxes imposed by this chapter shall only apply to deaths occurring prior to August*
6 *1, 2024.*

7 ➔Section 2. KRS 140.010 is amended to read as follows:

8 *For deaths occurring prior to August 1, 2024,* all real and personal property within the
9 jurisdiction of this state and any interest therein belonging to inhabitants of this state, all
10 tangible personal property wherever situated belonging to inhabitants of this state that has
11 not acquired a situs for purposes of taxation outside of this state, all intangible property
12 belonging to persons domiciled in this state except partnership property located in
13 another state which is subject to an inheritance or estate tax in that state, all intangible
14 property belonging to nonresidents that has acquired a business situs in this state, all real
15 property or interest therein within this state and all tangible personal property that has
16 acquired a situs in this state and is not taxable elsewhere belonging to persons who are
17 not inhabitants of this state, which shall pass by will or by the laws regulating intestate
18 succession, or by deed, grant, bargain, sale or gift made in contemplation of death or
19 made or intended to take effect in possession or enjoyment at or after the death of the
20 grantor or donor, absolutely or in trust, to any person or to any body politic or corporate,
21 in trust or otherwise, or by reason whereof any person or body politic or corporate shall
22 become beneficially entitled in possession or expectancy to any property or to the income
23 thereof, is subject to a tax upon the fair cash value as of the date of the death of the
24 grantor or donor of the property in excess of the exemptions granted and at the rates
25 prescribed in this chapter. This tax shall be imposed when any such person or corporation
26 becomes beneficially entitled in possession or expectancy to any property or the income
27 thereof by any such transfer.

1 ➔Section 3. KRS 140.020 is amended to read as follows:

2 **For deaths occurring prior to August 1, 2024:**

3 (1) The terms of this chapter shall apply to any property or interest therein, of which
4 the decedent has made a transfer by trust or otherwise, in contemplation of or
5 intended to take effect in possession or enjoyment at or after death, including a
6 transfer under which the transferor has retained for his or her life or any period not
7 ending before his or her death (a) the possession or enjoyment of, or the income
8 from the property; or (b) the actual or contingent power to designate the persons
9 who shall possess the property or the income therefrom, except in the case of a bona
10 fide sale for an adequate and full consideration in money or money's worth. It shall
11 further apply to any property conveyed in trust over which the settlor has a power
12 of revocation exercisable by will.

13 (2) Every transfer made within three (3) years prior to the death of the grantor, vendor
14 or donor of a material part of ~~the [his]~~ estate, or in the nature of a final disposition
15 or distribution thereof, and without an adequate valuable consideration, shall be
16 construed prima facie to have been made in contemplation of death within the
17 meaning of this chapter. If a transfer was made more than three (3) years prior to
18 the death of the decedent it shall be a question of fact, to be determined by the
19 proper tribunal, whether the transfer was made in contemplation of death.

20 (3) There shall be no presumption of contemplation of death as to certificates of deposit
21 jointly owned and all such certificates of deposit shall be taxed pursuant to KRS
22 140.050.

23 ➔Section 4. KRS 140.030 is amended to read as follows:

24 **For deaths occurring prior to August 1, 2024:**

25 (1) If it appears, either from the will of the decedent or from extrinsic evidence, that an
26 obligation of a contractual nature exists in favor of any person payable at or after
27 death of the decedent, the sum so payable shall be treated for the purposes of this

1 chapter as a taxable transfer, unless it affirmatively appears by competent evidence
2 that a consideration substantially equivalent in value to the amount due under the
3 contract was paid or furnished by or for the other party thereto during the life of the
4 decedent.

5 (2) The proceeds payable under any life insurance policy on the death of the assured
6 (other than a United States government life insurance policy or national service life
7 insurance policy issued by or through the federal government), payable to the
8 assured or ~~the~~^{his} estate, shall be taxable as a part of the legacy as a distributable
9 share of the beneficiary. The proceeds of an insurance policy payable to a
10 designated beneficiary, including a testamentary or inter vivos trustee, other than
11 the assured or ~~the~~^{his} estate, shall be tax-free. The proceeds payable under any
12 United States government life insurance policy or national service life insurance
13 policy issued by or through the federal government, whether payable to a
14 designated beneficiary or to the assured or ~~the~~^{his} estate, and any pension or
15 annuity payments made or to be made to the surviving spouse of an employee of a
16 railroad or other carrier under the Federal Railroad Retirement Act of 1935 as
17 amended, shall be tax-free, and shall not be considered in determining the value of
18 any taxable transfer.

19 ➔Section 5. KRS 140.040 is amended to read as follows:

20 **For deaths occurring prior to August 1, 2024:**

21 (1) Whenever any person shall exercise a power of appointment derived from any
22 disposition of property (whether by will, deed, trust agreement, contract, insurance
23 policy or other instrument) regardless of when made, such appointment shall be
24 deemed a transfer taxable under the provisions of this chapter in the same manner
25 as though the property to which such appointment relates belonged absolutely to the
26 donee of such power and had been bequeathed or devised by such donee by will;
27 and whenever any person possessing such a power of appointment so derived shall

1 omit or fail to exercise the same in whole or in part, within the time provided
2 therefor, a transfer taxable under the provisions of this chapter shall be deemed to
3 take place to the person or persons receiving such property as a result of such
4 omission or failure to the same extent that such property would have been subject to
5 taxation if it had passed under the will of the donee of such power. The time at
6 which such transfer shall be deemed to take place, for the purpose of taxation, shall
7 be governed by the provisions of subsections (2) to (4) of this section.

8 (2) In the case of a power of appointment which passes to the donee thereof at the death
9 of the donor, under any instrument, and if the donor dies on or after April 24, 1936,
10 the transfer shall be deemed to take place, for the purpose of taxation, at the time of
11 the death of the donor and the assessment be made at that time against the life
12 interest of the donee and the remainder against the corpus. The value of the
13 property to which the power of appointment relates shall be determined as of the
14 date of the death of the donor and shall be taxed at the rates and be subject to the
15 exemptions in effect at the death of the donor. The determination of the applicable
16 rates and exemptions (in effect at the death of the donor) shall be governed by the
17 relationship of the beneficiary to the donee of the power of appointment. In the
18 event the payment of the tax at the death of the donor should operate to provide an
19 exemption for any beneficiary of a donee not authorized by KRS 140.080, then
20 such exemption shall be retrospectively disallowed at the time of the death of the
21 donee. It is further provided that the remainder interest passing under the donee's
22 power of appointment, whether exercised or not, shall be added to and made a part
23 of the distributable share of the donee's estate for the purpose of determining the
24 exemption and rates applicable thereto.

25 (3) In all cases other than that described in subsection (2) *of this section* the transfer
26 shall be deemed to take place, for the purpose of taxation, at the time of the death of
27 the donee. In such cases, the value of the property to which the power of

1 appointment relates shall be determined as of the date of the death of the donee and
2 shall be taxed at the rates and be subject to the exemptions in effect at the death of
3 the donee. The determination of the applicable rates and exemptions (in effect at the
4 death of the donee) shall be governed by the relationship of the beneficiary to the
5 donee of the power of appointment.

6 (4) The provisions of subsection (2) of this section shall not preclude the taxation, at
7 the death of the donee, of any transfer made by means of a power of appointment if
8 such transfer was not in fact reported to or a tax assessed thereon by the Department
9 of Revenue within the period of limitation prescribed by KRS 140.160. If the
10 transfer by the power of appointment is not so reported or a tax assessed thereon,
11 the period of limitation prescribed in KRS 140.160 shall not begin to run until the
12 death of the donee of such power.

13 (5) The amendments to this section, adopted by the 1948 General Assembly, shall
14 apply to all powers of appointment whether created before or after the effective date
15 of said amendments. It is the declared intention of the General Assembly to impose
16 a tax upon every transfer of property by means of a power of appointment,
17 regardless of when or how created, and it is the declared intention of the General
18 Assembly that the use of the power of appointment device shall not permit the
19 transfer of property, to which such a power relates, to escape thereby the payment
20 of state inheritance taxes.

21 ➔Section 6. KRS 140.050 is amended to read as follows:

22 For deaths occurring prior to August 1, 2024, whenever any real or personal property is
23 held jointly in the names of two (2) or more persons, or as tenants by the entirety, or is
24 deposited in banks or other depositories jointly in the names of two (2) or more persons
25 and is payable to either or to the survivor upon the death of the other, the right of the
26 surviving tenant by the entirety or the surviving joint tenant or joint depositor to the
27 immediate ownership or possession and enjoyment of the property shall be deemed a

1 transfer of one-half (1/2) or other proper fraction thereof, taxable under the provisions of
2 this chapter in the same manner as though the part of the property to which the transfer
3 relates belonged to the tenants by the entirety, joint tenants or joint depositors as tenants
4 in common, and had been bequeathed or devised to the surviving tenant by the entirety,
5 joint tenant or joint depositor by the deceased tenant by the entirety, joint tenant or joint
6 depositor.

7 →Section 7. KRS 140.110 is amended to read as follows:

8 **For deaths occurring prior to August 1, 2024:**

9 (1) In the case of estates in expectancy which are contingent or defeasible, a tax shall
10 be levied at the rate which, on the happening of the most probable contingencies or
11 conditions named in the will, deed, trust agreement, contract, insurance policy, or
12 other instrument, would be applicable under the provisions of this chapter. Moneys
13 so collected shall be distributed as are other inheritance tax funds. If the property so
14 taxed shall ultimately vest in possession in persons taxable at a lower rate, or in a
15 person or a corporation exempt from taxation by this chapter, upon application by
16 such beneficiary to the Department of Revenue for refund of any excess tax, the
17 Department of Revenue, after investigation, shall certify to the Finance and
18 Administration Cabinet the amount of such refund. The Finance and Administration
19 Cabinet shall refund such excess payment of tax in the same manner as other
20 refunds are made.

21 (2) Where an estate or interest can be divested by the act or omission of the legatee or
22 devisee, it shall be taxed as if there were no possibility of divesting.

23 →Section 8. KRS 140.120 is amended to read as follows:

24 **For deaths occurring prior to August 1, 2024,** if a testator bequeaths or devises property
25 to one (1) or more personal representatives or trustees in lieu of their commissions or
26 allowances, or makes them his **or her** legatees to an amount exceeding the commissions
27 or allowances prescribed by law, the excess in value of property so bequeathed or devised

1 above the amount of commissions or allowances prescribed by law in similar cases shall
2 be taxable.

3 →Section 9. KRS 140.230 is amended to read as follows:

4 **For deaths occurring prior to August 1, 2024:**

5 (1) When any interest in property less than an estate in fee is devised or bequeathed to
6 one or more beneficiaries with remainder to others, and the interest of one or more
7 beneficiaries is subject to any of the taxes levied by this chapter, the personal
8 representative shall deduct the tax upon such taxable interests from the whole
9 property thus devised or bequeathed. Whenever property other than money is so
10 devised or bequeathed **the personal representative**~~he~~ may, unless the taxes upon
11 all the taxable interests are paid by the beneficiaries when due, be authorized to sell
12 the property or such portion thereof as may be necessary, as provided in KRS
13 140.220, and having deducted the unpaid taxes on the taxable interests from the
14 proceeds of the sale, **the personal representative**~~he~~ shall account for the balance
15 in lieu of the property sold, as in other cases.

16 (2) If a legacy subject to the tax is charged upon or payable out of real property, the
17 heir or devisee, before paying the legacy, shall deduct the tax therefrom and pay it
18 to the personal representative or trustee. The payment of this tax shall be enforced
19 in the same manner as the payment of a tax on a direct legacy could be enforced.

20 →Section 10. KRS 140.270 is amended to read as follows:

21 **For deaths occurring prior to August 1, 2024:**

22 (1) In the absence of administration in this state upon the estate of a nonresident, the
23 Department of Revenue, at the request of a personal representative duly appointed
24 and qualified in the state of the decedent's domicile, or of a grantee under a
25 conveyance made during the grantor's lifetime, and upon satisfactory evidence
26 furnished by the personal representative or grantee, or otherwise, may determine
27 whether or not any property of the decedent within this state is subject to the

1 provisions of this chapter. If so, the department may determine the amount of tax
2 and adjust the same with the personal representative or grantee, and for that purpose
3 may appoint an appraiser to appraise the property. The expense of appraisal shall be
4 charged upon the property in addition to the tax. The department's certificate of the
5 amount of tax and its receipt for the amount therein certified may be filed with the
6 county judge/executive of the county where the property is located, and when so
7 filed shall be evidence of the payment of the tax to the extent of such certification.
8 When the tax is not adjusted within six (6) months after the death of the decedent,
9 the proper District Court, upon application of the department, shall appoint an
10 administrator in this state.

11 (2) When evidence of ownership of intangible personal property belonging to a
12 nonresident decedent is found to be physically located in this state, the Department
13 of Revenue shall so inform the state official collecting death tax in the state of
14 domicile of the decedent, if that state furnishes like information to the Department
15 of Revenue of this state in a reciprocal manner.

16 ➔Section 11. The following KRS sections are repealed:

17 140.130 Levy of estate tax -- Computation -- Payment -- Administration.

18 140.140 Payment of estate tax under protest -- Action to recover -- Refund.