

1 AN ACT relating to Kentucky promise zone tax incentives.

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

3 ➔Section 1. KRS 141.010 is amended to read as follows:

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

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

1 transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);

2 (9) "Gross income," in the case of taxpayers other than corporations, means "gross
3 income" as defined in Section 61 of the Internal Revenue Code;

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

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

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

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

19 (d) Exclude employee pension contributions picked up as provided for in KRS
20 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610,
21 and 161.540 upon a ruling by the Internal Revenue Service or the federal
22 courts that these contributions shall not be included as gross income until such
23 time as the contributions are distributed or made available to the employee;

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

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

- 1 (g) Deduct, for taxable years ending before January 1, 1991, federal income tax
2 paid for taxable years ending before January 1, 1990;
- 3 (h) Exclude any money received because of a settlement or judgment in a lawsuit
4 brought against a manufacturer or distributor of "Agent Orange" for damages
5 resulting from exposure to Agent Orange by a member or veteran of the
6 Armed Forces of the United States or any dependent of such person who
7 served in Vietnam;
- 8 (i) 1. For taxable years ending prior to December 31, 2005, exclude the
9 applicable amount of total distributions from pension plans, annuity
10 contracts, profit-sharing plans, retirement plans, or employee savings
11 plans. The "applicable amount" shall be:
- 12 a. Twenty-five percent (25%), but not more than six thousand two
13 hundred fifty dollars (\$6,250), for taxable years beginning after
14 December 31, 1994, and before January 1, 1996;
- 15 b. Fifty percent (50%), but not more than twelve thousand five
16 hundred dollars (\$12,500), for taxable years beginning after
17 December 31, 1995, and before January 1, 1997;
- 18 c. Seventy-five percent (75%), but not more than eighteen thousand
19 seven hundred fifty dollars (\$18,750), for taxable years beginning
20 after December 31, 1996, and before January 1, 1998; and
- 21 d. One hundred percent (100%), but not more than thirty-five
22 thousand dollars (\$35,000), for taxable years beginning after
23 December 31, 1997.
- 24 2. For taxable years beginning after December 31, 2005, exclude up to
25 forty-one thousand one hundred ten dollars (\$41,110) of total
26 distributions from pension plans, annuity contracts, profit-sharing plans,
27 retirement plans, or employee savings plans.

- 1 3. As used in this paragraph:
- 2 a. "Distributions" includes but is not limited to any lump-sum
- 3 distribution from pension or profit-sharing plans qualifying for the
- 4 income tax averaging provisions of Section 402 of the Internal
- 5 Revenue Code; any distribution from an individual retirement
- 6 account as defined in Section 408 of the Internal Revenue Code;
- 7 and any disability pension distribution;
- 8 b. "Annuity contract" has the same meaning as set forth in Section
- 9 1035 of the Internal Revenue Code; and
- 10 c. "Pension plans, profit-sharing plans, retirement plans, or employee
- 11 savings plans" means any trust or other entity created or organized
- 12 under a written retirement plan and forming part of a stock bonus,
- 13 pension, or profit-sharing plan of a public or private employer for
- 14 the exclusive benefit of employees or their beneficiaries and
- 15 includes plans qualified or unqualified under Section 401 of the
- 16 Internal Revenue Code and individual retirement accounts as
- 17 defined in Section 408 of the Internal Revenue Code;
- 18 (j) 1. a. Exclude the portion of the distributive share of a shareholder's net
- 19 income from an S corporation subject to the franchise tax imposed
- 20 under KRS 136.505 or the capital stock tax imposed under KRS
- 21 136.300; and
- 22 b. Exclude the portion of the distributive share of a shareholder's net
- 23 income from an S corporation related to a qualified subchapter S
- 24 subsidiary subject to the franchise tax imposed under KRS
- 25 136.505 or the capital stock tax imposed under KRS 136.300.
- 26 2. The shareholder's basis of stock held in a S corporation where the S
- 27 corporation or its qualified subchapter S subsidiary is subject to the

1 franchise tax imposed under KRS 136.505 or the capital stock tax
2 imposed under KRS 136.300 shall be the same as the basis for federal
3 income tax purposes;

- 4 (k) Exclude, to the extent not already excluded from gross income, any amounts
5 paid for health insurance, or the value of any voucher or similar instrument
6 used to provide health insurance, which constitutes medical care coverage for
7 the taxpayer, the taxpayer's spouse, and dependents, or for any person
8 authorized to be provided excludable coverage by the taxpayer pursuant to the
9 federal Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-
10 148, or the Health Care and Education Reconciliation Act of 2010 Pub. L. No.
11 111-152, during the taxable year. Any amounts paid by the taxpayer for health
12 insurance that are excluded pursuant to this paragraph shall not be allowed as
13 a deduction in computing the taxpayer's net income under subsection (11) of
14 this section;
- 15 (l) Exclude income received for services performed as a precinct worker for
16 election training or for working at election booths in state, county, and local
17 primary, regular, or special elections;
- 18 (m) Exclude any amount paid during the taxable year for insurance for long-term
19 care as defined in KRS 304.14-600;
- 20 (n) Exclude any capital gains income attributable to property taken by eminent
21 domain;
- 22 (o) Exclude any amount received by a producer of tobacco or a tobacco quota
23 owner from the multistate settlement with the tobacco industry, known as the
24 Master Settlement Agreement, signed on November 22, 1998;
- 25 (p) Exclude any amount received from the secondary settlement fund, referred to
26 as "Phase II," established by tobacco companies to compensate tobacco
27 farmers and quota owners for anticipated financial losses caused by the

- 1 national tobacco settlement;
- 2 (q) Exclude any amount received from funds of the Commodity Credit
3 Corporation for the Tobacco Loss Assistance Program as a result of a
4 reduction in the quantity of tobacco quota allotted;
- 5 (r) Exclude any amount received as a result of a tobacco quota buydown program
6 that all quota owners and growers are eligible to participate in;
- 7 (s) Exclude state Phase II payments received by a producer of tobacco or a
8 tobacco quota owner;
- 9 (t) Exclude all income from all sources for active duty and reserve members and
10 officers of the Armed Forces of the United States or National Guard who are
11 killed in the line of duty, for the year during which the death occurred and the
12 year prior to the year during which the death occurred. For the purposes of this
13 paragraph, "all income from all sources" shall include all federal and state
14 death benefits payable to the estate or any beneficiaries;~~and~~
- 15 (u) For taxable years beginning on or after January 1, 2010, exclude all military
16 pay received by active duty members of the Armed Forces of the United
17 States, members of reserve components of the Armed Forces of the United
18 States, and members of the National Guard, including compensation for state
19 active duty as described in KRS 38.205; and
- 20 (v) Exclude wages received by an employee from a qualified Kentucky promise
21 zone employer on or after July 1, 2017, but before January 1, 2022, for
22 services performed in the Kentucky promise zone;
- 23 (11) "Net income," in the case of taxpayers other than corporations, means adjusted
24 gross income as defined in subsection (10) of this section, minus:
- 25 (a) The deduction allowed by KRS 141.0202;
- 26 (b) Any amount paid for vouchers or similar instruments that provide health
27 insurance coverage to employees or their families;

- 1 (c) For taxable years beginning on or after January 1, 2010, the amount of
2 domestic production activities deduction calculated at six percent (6%) as
3 allowed in Section 199(a)(2) of the Internal Revenue Code for taxable years
4 beginning before 2010; and
- 5 (d) 1. All the deductions allowed individuals by Chapter 1 of the Internal
6 Revenue Code as modified by KRS 141.0101 except:
- 7 a. Any deduction allowed by the Internal Revenue Code for state or
8 foreign taxes measured by gross or net income, including state and
9 local general sales taxes allowed in lieu of state and local income
10 taxes under the provisions of Section 164(b)(5) of the Internal
11 Revenue Code;
- 12 b. Any deduction allowed by the Internal Revenue Code for amounts
13 allowable under KRS 140.090(1)(h) in calculating the value of the
14 distributive shares of the estate of a decedent, unless there is filed
15 with the income return a statement that such deduction has not
16 been claimed under KRS 140.090(1)(h);
- 17 c. The deduction for personal exemptions allowed under Section 151
18 of the Internal Revenue Code and any other deductions in lieu
19 thereof;
- 20 d. For taxable years beginning on or after January 1, 2010, the
21 domestic production activities deduction allowed under Section
22 199 of the Internal Revenue Code;
- 23 e. Any deduction for amounts paid to any club, organization, or
24 establishment which has been determined by the courts or an
25 agency established by the General Assembly and charged with
26 enforcing the civil rights laws of the Commonwealth, not to afford
27 full and equal membership and full and equal enjoyment of its

1 goods, services, facilities, privileges, advantages, or
2 accommodations to any person because of race, color, religion,
3 national origin, or sex, except nothing shall be construed to deny a
4 deduction for amounts paid to any religious or denominational
5 club, group, or establishment or any organization operated solely
6 for charitable or educational purposes which restricts membership
7 to persons of the same religion or denomination in order to
8 promote the religious principles for which it is established and
9 maintained;

10 f. Any deduction directly or indirectly allocable to income which is
11 either exempt from taxation or otherwise not taxed under this
12 chapter;

13 g. The itemized deduction limitation established in 26 U.S.C. sec. 68
14 shall be determined using the applicable amount from 26 U.S.C.
15 sec. 68 as it existed on December 31, 2006; and

16 h. A taxpayer may elect to claim the standard deduction allowed by
17 KRS 141.081 instead of itemized deductions allowed pursuant to
18 26 U.S.C. sec. 63 and as modified by this section; and

19 2. Nothing in this chapter shall be construed to permit the same item to be
20 deducted more than once;

21 (12) "Gross income," in the case of corporations, means "gross income" as defined in
22 Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and
23 adjusted as follows:

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

26 (b) Exclude all dividend income received after December 31, 1969;

27 (c) Include interest income derived from obligations of sister states and political

- 1 subdivisions thereof;
- 2 (d) Exclude fifty percent (50%) of gross income derived from any disposal of coal
3 covered by Section 631(c) of the Internal Revenue Code if the corporation
4 does not claim any deduction for percentage depletion, or for expenditures
5 attributable to the making and administering of the contract under which such
6 disposition occurs or to the preservation of the economic interests retained
7 under such contract;
- 8 (e) Include in the gross income of lessors income tax payments made by lessees
9 to lessors, under the provisions of Section 110 of the Internal Revenue Code,
10 and exclude such payments from the gross income of lessees;
- 11 (f) Include the amount calculated under KRS 141.205;
- 12 (g) Ignore the provisions of Section 281 of the Internal Revenue Code in
13 computing gross income;
- 14 (h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal
15 Revenue Code);
- 16 (i) Exclude any amount received by a producer of tobacco or a tobacco quota
17 owner from the multistate settlement with the tobacco industry, known as the
18 Master Settlement Agreement, signed on November 22, 1998;
- 19 (j) Exclude any amount received from the secondary settlement fund, referred to
20 as "Phase II," established by tobacco companies to compensate tobacco
21 farmers and quota owners for anticipated financial losses caused by the
22 national tobacco settlement;
- 23 (k) Exclude any amount received from funds of the Commodity Credit
24 Corporation for the Tobacco Loss Assistance Program as a result of a
25 reduction in the quantity of tobacco quota allotted;
- 26 (l) Exclude any amount received as a result of a tobacco quota buydown program
27 that all quota owners and growers are eligible to participate in;

- 1 (m) For taxable years beginning after December 31, 2004, and before January 1,
2 2007, exclude the distributive share income or loss received from a
3 corporation defined in subsection (24)(b) of this section whose income has
4 been subject to the tax imposed by KRS 141.040. The exclusion provided in
5 this paragraph shall also apply to a taxable year that begins prior to January 1,
6 2005, if the tax imposed by KRS 141.040 is paid on the distributive share
7 income by a corporation defined in subparagraphs 2. to 8. of subsection
8 (24)(b) of this section with a return filed for a period of less than twelve (12)
9 months that begins on or after January 1, 2005, and ends on or before
10 December 31, 2005. This paragraph shall not be used to delay payment of the
11 tax imposed by KRS 141.040; and
- 12 (n) Exclude state Phase II payments received by a producer of tobacco or a
13 tobacco quota owner;
- 14 (13) "Net income," in the case of corporations, means "gross income" as defined in
15 subsection (12) of this section minus:
- 16 (a) The deduction allowed by KRS 141.0202;
- 17 (b) Any amount paid for vouchers or similar instruments that provide health
18 insurance coverage to employees or their families;
- 19 (c) For taxable years beginning on or after January 1, 2010, the amount of
20 domestic production activities deduction calculated at six percent (6%) as
21 allowed in Section 199(a)(2) of the Internal Revenue Code for taxable years
22 beginning before 2010; and
- 23 (d) All the deductions from gross income allowed corporations by Chapter 1 of
24 the Internal Revenue Code and as modified by KRS 141.0101, except:
- 25 1. Any deduction for a state tax which is computed, in whole or in part, by
26 reference to gross or net income and which is paid or accrued to any
27 state of the United States, the District of Columbia, the Commonwealth

- 1 of Puerto Rico, any territory or possession of the United States, or to any
2 foreign country or political subdivision thereof;
- 3 2. The deductions contained in Sections 243, 244, 245, and 247 of the
4 Internal Revenue Code;
- 5 3. The provisions of Section 281 of the Internal Revenue Code shall be
6 ignored in computing net income;
- 7 4. Any deduction directly or indirectly allocable to income which is either
8 exempt from taxation or otherwise not taxed under the provisions of this
9 chapter, and nothing in this chapter shall be construed to permit the
10 same item to be deducted more than once;
- 11 5. Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of
12 the Internal Revenue Code);
- 13 6. Any deduction for amounts paid to any club, organization, or
14 establishment which has been determined by the courts or an agency
15 established by the General Assembly and charged with enforcing the
16 civil rights laws of the Commonwealth, not to afford full and equal
17 membership and full and equal enjoyment of its goods, services,
18 facilities, privileges, advantages, or accommodations to any person
19 because of race, color, religion, national origin, or sex, except nothing
20 shall be construed to deny a deduction for amounts paid to any religious
21 or denominational club, group, or establishment or any organization
22 operated solely for charitable or educational purposes which restricts
23 membership to persons of the same religion or denomination in order to
24 promote the religious principles for which it is established and
25 maintained;
- 26 7. Any deduction prohibited by KRS 141.205;
- 27 8. Any dividends-paid deduction of any captive real estate investment trust;

1 and

2 9. For taxable years beginning on or after January 1, 2010, the domestic
3 production activities deduction allowed under Section 199 of the
4 Internal Revenue Code;

5 (14) (a) "Taxable net income," in the case of corporations that are taxable in this state,
6 means "net income" as defined in subsection (13) of this section;

7 (b) "Taxable net income," in the case of corporations that are taxable in this state
8 and taxable in another state, means "net income" as defined in subsection (13)
9 of this section and as allocated and apportioned under KRS 141.120. A
10 corporation is taxable in another state if, in any state other than Kentucky, the
11 corporation is required to file a return for or pay a net income tax, franchise
12 tax measured by net income, franchise tax for the privilege of doing business,
13 or corporate stock tax;

14 (c) "Taxable net income," in the case of homeowners' associations as defined in
15 Section 528(c) of the Internal Revenue Code, means "taxable income" as
16 defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the
17 provisions of subsection (3) of this section, the Internal Revenue Code
18 sections referred to in this paragraph shall be those code sections in effect for
19 the applicable tax year; and

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

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

- 1 (16) "Taxable year" means the calendar year or fiscal year ending during such calendar
2 year, upon the basis of which net income is computed, and in the case of a return
3 made for a fractional part of a year under the provisions of this chapter or under
4 regulations prescribed by the commissioner, "taxable year" means the period for
5 which the return is made;
- 6 (17) "Resident" means an individual domiciled within this state or an individual who is
7 not domiciled in this state, but maintains a place of abode in this state and spends in
8 the aggregate more than one hundred eighty-three (183) days of the taxable year in
9 this state;
- 10 (18) "Nonresident" means any individual not a resident of this state;
- 11 (19) "Employer" means "employer" as defined in Section 3401(d) of the Internal
12 Revenue Code;
- 13 (20) "Employee" means "employee" as defined in Section 3401(c) of the Internal
14 Revenue Code;
- 15 (21) "Number of withholding exemptions claimed" means the number of withholding
16 exemptions claimed in a withholding exemption certificate in effect under KRS
17 141.325, except that if no such certificate is in effect, the number of withholding
18 exemptions claimed shall be considered to be zero;
- 19 (22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue
20 Code and includes other income subject to withholding as provided in Section
21 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;
- 22 (23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the
23 Internal Revenue Code;
- 24 (24) (a) For taxable years beginning before January 1, 2005, and after December 31,
25 2006, "corporation" means "corporation" as defined in Section 7701(a)(3) of
26 the Internal Revenue Code; and
- 27 (b) For taxable years beginning after December 31, 2004, and before January 1,

1 2007, "corporations" means:

- 2 1. "Corporations" as defined in Section 7701(a)(3) of the Internal Revenue
- 3 Code;
- 4 2. S corporations as defined in Section 1361(a) of the Internal Revenue
- 5 Code;
- 6 3. A foreign limited liability company as defined in KRS 275.015;
- 7 4. A limited liability company as defined in KRS 275.015;
- 8 5. A professional limited liability company as defined in KRS 275.015;
- 9 6. A foreign limited partnership as defined in KRS 362.2-102(9);
- 10 7. A limited partnership as defined in KRS 362.2-102(14);
- 11 8. A limited liability partnership as defined in KRS 362.155(7) or in 362.1-
- 12 101(7) or (8);
- 13 9. A real estate investment trust as defined in Section 856 of the Internal
- 14 Revenue Code;
- 15 10. A regulated investment company as defined in Section 851 of the
- 16 Internal Revenue Code;
- 17 11. A real estate mortgage investment conduit as defined in Section 860D of
- 18 the Internal Revenue Code;
- 19 12. A financial asset securitization investment trust as defined in Section
- 20 860L of the Internal Revenue Code; and
- 21 13. Other similar entities created with limited liability for their partners,
- 22 members, or shareholders.

23 For purposes of this paragraph, "corporation" shall not include any publicly
24 traded partnership as defined by Section 7704(b) of the Internal Revenue Code
25 that is treated as a partnership for federal tax purposes under Section 7704(c)
26 of the Internal Revenue Code or its publicly traded partnership affiliates. As
27 used in this paragraph, "publicly traded partnership affiliates" shall include

1 any limited liability company or limited partnership for which at least eighty
2 percent (80%) of the limited liability company member interests or limited
3 partner interests are owned directly or indirectly by the publicly traded
4 partnership;

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

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

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

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

27 (27) "S corporation" means "S corporation" as defined in Section 1361(a) of the Internal

1 Revenue Code;

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

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

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

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

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

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

18 b. Ten percent (10%), if the corporation occupies property owned,
19 constructively owned, or controlled by the real estate investment
20 trust.

21 The total ownership interest of a corporation shall be determined by
22 aggregating all interests owned or constructively owned by a
23 corporation;

24 2. For the purposes of this paragraph:

25 a. "Corporation" means a corporation taxable under KRS 141.040,
26 and includes an affiliated group as defined in KRS 141.200, that is
27 required to file a consolidated return pursuant to the provisions of

- 1 KRS 141.200; and
- 2 b. "Owned or constructively owned" means owning shares or having
- 3 an ownership interest in the real estate investment trust, or owning
- 4 an interest in an entity that owns shares or has an ownership
- 5 interest in the real estate investment trust. Constructive ownership
- 6 shall be determined by looking across multiple layers of a
- 7 multilayer pass-through structure; and
- 8 (c) The real estate investment trust is not owned by another real estate investment
- 9 trust;

10 **(30) "Kentucky promise zone" means the Kentucky counties of Bell, Clay, Harlan,**

11 **Knox, Leslie, Perry, and Whitley, except that the zone shall not include 2010**

12 **United States Census Tracts 9203 and 9204 located in Whitley County;**

13 **(31) "Qualified Kentucky promise zone employer" means an employer:**

14 **(a) Whose total annual gross receipts were five million dollars (\$5,000,000) or**

15 **less in the immediately preceding calendar year; and**

16 **(b) That has a physical location in the Kentucky promise zone; and**

17 **(32) "Services performed in the Kentucky promise zone" means:**

18 **(a) The individual's service is performed entirely within the Kentucky promise**

19 **zone;**

20 **(b) The individual's service is performed both within and without the Kentucky**

21 **promise zone, but the service performed without the Kentucky promise zone**

22 **is incidental to the individual's service within the Kentucky promise zone;**

23 **or**

24 **(c) Some of the service is performed in the Kentucky promise zone and the base**

25 **of operations or, if there is no base of operations, the place from which the**

26 **service is directed or controlled is in the Kentucky promise zone.**

27 ➔Section 2. KRS 141.310 is amended to read as follows:

- 1 (1) (a) Except as provided in paragraph (b) of this subsection, every employer
2 making payment of wages on or after January 1, 1971, shall deduct and
3 withhold upon the wages a tax determined under KRS 141.315 or by the
4 tables authorized by KRS 141.370.
- 5 (b) 1. On or after July 1, 2017, but before January 1, 2022, every qualified
6 Kentucky promise zone employer making payment of wages to an
7 employee for services performed in the Kentucky promise zone shall
8 not deduct and withhold individual income tax imposed under KRS
9 141.020 from the employee's wages.
- 10 2. On or before March 1, 2018, and on or before each March 1
11 thereafter as long as subparagraph 1. of this paragraph applies, the
12 qualified Kentucky promise zone employer shall report to the
13 department for the immediately preceding calendar year:
- 14 a. The counties within the Kentucky promise zone in which the
15 employer has a physical location and the corresponding address
16 of that location;
- 17 b. The total number of its employees performing services in the
18 Kentucky promise zone, by county; and
- 19 c. The total amount of wages paid to its employees for services
20 performed in the Kentucky promise zone, by county.
- 21 3. On or before December 1, 2018, and on or before each December 1
22 thereafter as long as subparagraph 1. of this paragraph applies, the
23 department shall report cumulatively to the Legislative Research
24 Commission by county for each calendar year:
- 25 a. The total number of qualified Kentucky promise zone employers;
26 b. The total number of employees receiving wages from a qualified
27 Kentucky promise zone employer for providing services in the

1 *Kentucky promise zone; and*
2 *c. The total amount of wages paid by the qualified Kentucky*
3 *promise zone employers to their employees for services*
4 *performed in the Kentucky promise zone.*

- 5 (2) If wages are paid with respect to a period which is not a payroll period, the amount
6 to be deducted and withheld shall be that applicable in the case of a miscellaneous
7 payroll period containing a number of days, including Sundays and holidays, equal
8 to the number of days in the period with respect to which the wages are paid.
- 9 (3) If wages are paid by an employer without regard to any payroll period or other
10 period, the amount to be deducted and withheld shall be that applicable in the case
11 of a miscellaneous payroll period containing a number of days equal to the number
12 of days, including Sundays and holidays, which have elapsed since the date of the
13 last payment of wages by the employer during the calendar year, or the date of
14 commencement of employment with the employer during the year, or January 1 of
15 the year, whichever is the later.
- 16 (4) In determining the amount to be deducted and withheld under this section, the
17 wages may, at the election of the employer, be computed to the nearest dollar.
- 18 (5) The tables mentioned in subsection (1) of this section shall consider the standard
19 deduction.
- 20 (6) The department may permit the use of accounting machines to calculate the proper
21 amount to be deducted from wages when the calculation produces substantially the
22 same result as set forth in the tables authorized by KRS 141.370. Prior approval of
23 the calculation shall be secured from the department at least thirty (30) days before
24 the first payroll period for which it is to be used.
- 25 (7) The department may, by administrative regulations, authorize employers:
26 (a) To estimate the wages which will be paid to any employee in any quarter of
27 the calendar year;

- 1 (b) To determine the amount to be deducted and withheld upon each payment of
2 wages to the employee during the quarter as if the appropriate average of the
3 wages estimated constituted the actual wages paid; and
- 4 (c) To deduct and withhold upon any payment of wages to the employee during
5 the quarter the amount necessary to adjust the amount actually deducted and
6 withheld upon the wages of the employee during the quarter to the amount
7 that would be required to be deducted and withheld during the quarter if the
8 payroll period of the employee was quarterly.
- 9 (8) The department may provide by regulation, under the conditions and to the extent it
10 deems proper, for withholding in addition to that otherwise required under this
11 section and KRS 141.315 in cases in which the employer and the employee agree to
12 the additional withholding. The additional withholding shall for all purposes be
13 considered tax required to be deducted and withheld under this chapter.
- 14 (9) Effective January 1, 1992, any employer required by this section to withhold
15 Kentucky income tax who assesses and withholds from employees the job
16 assessment fee provided in KRS 154.24-110 may offset a portion of the fee against
17 the Kentucky income tax required to be withheld from the employee under this
18 section. The amount of the offset shall be four-fifths ($\frac{4}{5}$) of the amount of the
19 assessment fee withheld from the employee or the Commonwealth's contribution of
20 KRS 154.24-110(3) applies. If the provisions in KRS 154.24-150(3) or (4) apply,
21 the offset, the offset shall be one hundred percent (100%) of the assessment.
- 22 (10) Any employer required by this section to withhold Kentucky income tax who
23 assesses and withholds from employees an assessment provided in KRS 154.22-070
24 or KRS 154.28-110 may offset the fee against the Kentucky income tax required to
25 be withheld from the employee under this section.
- 26 (11) Any employer required by this section to withhold Kentucky income tax who
27 assesses and withholds from employees the job assessment fee provided in KRS

1 154.26-100 may offset a portion of the fee against the Kentucky income tax
2 required to be withheld from the employee under this section. The amount of the
3 offset shall be four-fifths (4/5) of the amount of the assessment fee withheld from
4 the employee, or if the agreement under KRS 154.26-090(1)(f)2. is consummated,
5 the offset shall be one hundred percent (100%) of the assessment fee.

6 (12) Any employer required by this section to withhold Kentucky income tax who
7 assesses and withholds from employees the job development assessment fee
8 provided in KRS 154.23-055 may offset a portion of the fee against the Kentucky
9 income tax required to be withheld from the employee under this section. The
10 amount of the offset shall be equal to the Commonwealth's contribution as
11 determined by KRS 154.23-055(1) to (3).

12 (13) Any employer required by this section to withhold Kentucky income tax who
13 assesses and withholds from employees the job development assessment fee
14 provided in KRS 154.32-090 may offset the state portion of the assessment against
15 the Kentucky income tax required to be withheld from the employee under this
16 section.

17 (14) Any employer required by this section to withhold Kentucky income tax may be
18 required to post a bond with the department. The bond shall be a corporate surety
19 bond or cash. The amount of the bond shall be determined by the department, but
20 shall not exceed fifty thousand dollars (\$50,000).

21 (15) Any employer required by this section to withhold Kentucky income tax who
22 assesses and withholds from employees an assessment provided in KRS 154.27-080
23 may offset the assessment against the Kentucky income tax required to be withheld
24 from the employee under this section.

25 (16) The Commonwealth may bring an action for a restraining order or a temporary or
26 permanent injunction to restrain or enjoin the operation of an employer's business
27 until the bond is posted or the tax required to be withheld is paid or both. The action

1 may be brought in the Franklin Circuit Court or in the Circuit Court having
2 jurisdiction of the defendant.

3 →Section 3. KRS 139.570 is amended to read as follows:

4 (1) (a) For reimbursement of the cost of collecting and remitting the tax, the
5 seller shall deduct on each return one and three-quarters percent (1.75%) of
6 the first one thousand dollars (\$1,000) of tax due and one and one-half percent
7 (1.5%) of the tax due in excess of one thousand dollars (\$1,000), provided the
8 amount due is not delinquent at the time of payment.

9 ~~[(b)]~~ The total reimbursement allowed for each seller in any reporting period shall
10 not exceed fifty dollars (\$50).

11 (b) 1. Effective July 1, 2017, through January 31, 2022, if the seller is a
12 qualified Kentucky promise zone employer and files a separate return
13 for the location within the Kentucky promise zone, the seller shall
14 deduct on each return filed for a location within the Kentucky promise
15 zone an amount of compensation equal to seventy-five percent (75%)
16 of the tax due, provided the amount due is not delinquent at the time
17 of payment.

18 2. As used in this subsection:

19 a. "Kentucky promise zone" has the same meaning as in Section 1
20 of this Act; and

21 b. "Kentucky promise zone employer" has the same meaning as in
22 Section 1 of this Act.

23 3. The department shall promulgate administrative regulations in
24 accordance with KRS Chapter 13A to administer this paragraph, and
25 shall require the filing of an application designed by the department to
26 reflect the intent of this paragraph.

27 4. On or before May 1, 2018, and on or before each May 1 thereafter for

1 as long as subparagraph 1. of this paragraph applies, the department
 2 shall report to the Legislative Research Commission by each county
 3 within the Kentucky promise zone:

4 a. The total number of sellers deducting compensation under this
 5 subsection in the immediately preceding calendar year; and

6 b. The total amount of compensation deducted under this
 7 subsection by sellers in the immediately preceding calendar year.

8 (2) Notwithstanding paragraph (a) of subsection (1) of this section, the rate of
 9 compensation for taxes collected or returns filed by certified service providers and
 10 other model sellers participating in the agreement as defined in KRS 139.781 shall
 11 be determined according to the terms of the agreement as provided in KRS
 12 139.789(7).

13 ➔Section 4. KRS 131.190 is amended to read as follows:

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

24 ~~(2)~~~~[(b)]~~ The prohibition established by subsection (1) ~~[paragraph (a)]~~ of this section
 25 shall ~~[subsection does]~~ not extend to:

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

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

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

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

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

19 ~~(f)~~^[6-] Providing to a third-party purchaser pursuant to an order entered in a
20 foreclosure action filed in a court of competent jurisdiction, factual
21 information related to the owner or lessee of coal, oil, gas reserves, or any
22 other mineral resources assessed under KRS 132.820~~[(1)]~~. The department
23 may promulgate an administrative regulation establishing a fee schedule for
24 the provision of the information described in this subparagraph. Any fee
25 imposed shall not exceed the greater of the actual cost of providing the
26 information or ten dollars (\$10);~~[or]~~

27 ~~(g)~~^[7-] Providing information to a licensing agency, the Transportation Cabinet,

- 1 or the Kentucky Supreme Court under KRS 131.1817;
- 2 (h) Statistics of gasoline and special fuels gallonage reported to the department
3 under KRS 138.210 to 138.448;
- 4 (i) Statistics of crude oil reported to the department under the crude oil excise
5 tax requirements of KRS Chapter 137;
- 6 (j) Statistics of natural gas production reported to the department under the
7 natural resources severance tax requirements of KRS Chapter 143A;
- 8 (k) Those portions of mine maps submitted by taxpayers to the department
9 pursuant to KRS Chapter 132 for ad valorem tax purposes that depict the
10 boundaries of mined-out parcel areas. These electronic maps shall not be
11 relied upon to determine actual boundaries of mined-out parcel areas.
12 Property boundaries contained in mine maps required under KRS Chapters
13 350 and 352 shall not be construed to constitute land surveying or boundary
14 surveys defined by KRS 322.010 and any administrative regulations;
- 15 (l) Providing to other state agencies the report, filed with the department by an
16 employer, listing the policy number and the name and address of the
17 employer's workers' compensation insurance carrier under Section 5 of this
18 Act;
- 19 (m) The name and address of a cigarette stamping agent or distributor and the
20 number of sticks by brand name that have been purchased from a
21 nonparticipating manufacturer and have been stamped with Kentucky
22 stamps by that agent or distributor provided by Section 6 of this Act;
- 23 (n) A list of taxpayers that owe delinquent taxes or fees administered by the
24 department provided by Section 7 of this Act;
- 25 (o) Providing any utility gross receipts license tax return information that is
26 necessary to administer the provisions of KRS 160.613 to 160.617 to
27 applicable school districts on a confidential basis;

1 (p) Information made available by the department, for official use only and on
 2 a confidential basis, to the proper officer, agency, board, or commission of
 3 this state, any Kentucky city or county, any other state, or the federal
 4 government, under reciprocal agreements whereby the department shall
 5 receive similar or useful information in return; or

6 (q) Providing information to the Legislative Research Commission under:

7 1. KRS 139.519 for purposes of the sales and use tax refund on building
 8 materials used for disaster recovery;

9 2. KRS 141.436 for purposes of the energy efficiency products credits;

10 3. KRS 141.437 for purposes of the ENERGY STAR home and the
 11 ENERGY STAR manufactured home credits;

12 4. Section 9 of this Act for purposes of the distilled spirits credit; or

13 5. Sections 2 and 3 of this Act regarding the Kentucky promise zone.

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

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

21 ~~(4)} Access to and inspection of information received from the Internal Revenue Service~~
 22 ~~is for department[of Revenue] use only, and is restricted to tax administration~~
 23 ~~purposes.[Notwithstanding the provisions of this section to the contrary,]~~

24 Information received from the Internal Revenue Service shall not be made available
 25 to any other agency of state government, or any county, city, or other state, and shall
 26 not be inspected intentionally and without authorization by any present secretary or
 27 employee of the Finance and Administration Cabinet, commissioner or employee of

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

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

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

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

20 ➔Section 5. KRS 131.135 is amended to read as follows:

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

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

27 ➔Section 6. KRS 131.618 is amended to read as follows:

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

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

21 ➔Section 7. KRS 131.650 is amended to read as follows:

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

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

27 (a) The taxes or fees owed remain unpaid at least forty-five (45) days after the

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

13 ➔Section 8. KRS 131.990 is amended to read as follows:

- 14 (1) Any person who fails or refuses to obey a subpoena or order of the Kentucky Board
- 15 of Tax Appeals made pursuant to KRS Chapter 13B shall be fined not less than
- 16 twenty-five dollars (\$25) nor more than five hundred dollars (\$500).
- 17 (2) (a) Any person who violates the intentional unauthorized inspection provisions of
- 18 KRS 131.190(1) shall be fined not more than five hundred dollars (\$500) or
- 19 imprisoned for not more than six (6) months, or both.
- 20 (b) Any person who violates the provisions of KRS 131.190(1) by divulging
- 21 confidential taxpayer information shall be fined not more than one thousand
- 22 dollars (\$1,000) or imprisoned for not more than one (1) year, or both.
- 23 (c) Any person who violates the intentional unauthorized inspection provisions of
- 24 KRS 131.190~~(3)~~~~(4)~~ shall be fined not more than one thousand dollars
- 25 (\$1,000) or imprisoned for not more than one (1) year, or both.
- 26 (d) Any person who violates the provisions of KRS 131.190~~(3)~~~~(4)~~ by divulging
- 27 confidential taxpayer information shall be fined not more than five thousand

1 dollars (\$5,000) or imprisoned for not more than five (5) years, or both.

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

8 (3) Any person who willfully fails to comply with the rules and regulations
9 promulgated by the department for the administration of delinquent tax collections
10 shall be fined not less than twenty dollars (\$20) nor more than one thousand dollars
11 (\$1,000).

12 (4) Any person who fails to do any act required or does any act forbidden by KRS
13 131.210 shall be fined not less than ten dollars (\$10) nor more than five hundred
14 dollars (\$500).

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

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

26 (b) Any financial institution that fails or refuses to comply with the provisions of
27 KRS 131.672 and 131.674 within one hundred twenty (120) days after the

1 notification by the department shall, unless the failure is due to reasonable
2 cause as defined in KRS 131.010, forfeit its right to do business within the
3 Commonwealth, unless and until the financial institution is in compliance.
4 Upon notification by the department, the commissioner of the Department of
5 Financial Institutions shall, as applicable, revoke the authority of the financial
6 institution or its agents to do business in the Commonwealth.

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

12 ➔Section 9. KRS 141.389 is amended to read as follows:

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

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

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

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

27 4. For taxable years beginning on or after January 1, 2018, and before

- 1 December 31, 2018, the credit shall be equal to eighty percent (80%) of
2 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a
3 timely basis; and
- 4 5. For taxable years beginning on or after January 1, 2019, the credit shall
5 be equal to one hundred percent (100%) of the tax assessed under KRS
6 132.160 and paid under KRS 132.180 on a timely basis.
- 7 (b) The credit shall be applied both to the income tax imposed under KRS
8 141.020 or 141.040 and to the limited liability entity tax imposed under KRS
9 141.0401, with the ordering of the credits as provided in KRS 141.0205.
- 10 (2) The amount of distilled spirits credit allowed under subsection (1) of this section
11 shall be used only for capital improvements at the premises of the distiller licensed
12 pursuant to KRS Chapter 243. As used in this subsection, "capital improvement"
13 means any costs associated with:
- 14 (a) Construction, replacement, or remodeling of warehouses or facilities;
15 (b) Purchases of barrels and pallets used for the storage and aging of distilled
16 spirits in maturing warehouses;
17 (c) Acquisition, construction, or installation of equipment for the use in the
18 manufacture, bottling, or shipment of distilled spirits;
19 (d) Addition or replacement of access roads or parking facilities; and
20 (e) Construction, replacement, or remodeling of facilities to market or promote
21 tourism, including but not limited to a visitor's center.
- 22 (3) The distilled spirits credit allowed under subsection (1) of this section:
- 23 (a) May be accumulated for multiple taxable years;
24 (b) Shall be claimed on the return of the taxpayer filed for the taxable year during
25 which the credits were used pursuant to subsection (2) of this section; and
26 (c) Shall not include:
27 1. Any delinquent tax paid to the Commonwealth; or

- 1 2. Any interest, fees, or penalty paid to the Commonwealth.
- 2 (4) (a) Before the distilled spirits credit shall be allowed on any return, the capital
3 improvements required by subsection (2) of this section shall be completed
4 and specifically associated with the credit allowed on the return.
- 5 (b) The amount of distilled spirits credit allowed shall be recaptured if the capital
6 improvement associated with the credit is sold or otherwise disposed of prior
7 to the exhaustion of the useful life of the asset for Kentucky depreciation
8 purposes.
- 9 (c) If the allowed credit is associated with multiple capital improvements, and not
10 all capital improvements are sold or otherwise disposed of, the distilled spirits
11 credit shall be prorated based on the cost of the capital improvement sold over
12 the total cost of all improvements associated with the credit.
- 13 (5) If the taxpayer is a pass-through entity, the taxpayer may apply the credit against the
14 limited liability entity tax imposed by KRS 141.0401, and shall pass the credit
15 through to its members, partners, or shareholders in the same proportion as the
16 distributive share of income or loss is passed through.
- 17 (6) The department may promulgate an administrative regulation pursuant to KRS
18 Chapter 13A to implement the allowable credit under this section, require the filing
19 of forms designed by the department, and require specific information for the
20 evaluation of the credit taken by any taxpayer.
- 21 (7) ~~Notwithstanding KRS 131.190,~~ No later than September 1, 2016, and annually
22 thereafter, the department shall report to the Interim Joint Committee on
23 Appropriations and Revenue:
- 24 (a) The name of each taxpayer taking the credit permitted by subsection (1) of
25 this section;
- 26 (b) The amount of credit taken by that taxpayer; and
- 27 (c) The type of capital improvement made for which the credit is claimed.

1 ➔Section 10. KRS 131.020 is amended to read as follows:

2 (1) The department~~[of Revenue]~~, headed by a commissioner appointed by the secretary
3 with the approval of the Governor, shall be organized into the following functional
4 units:

5 (a) Office of the Commissioner~~[of the Department of Revenue]~~, which shall
6 consist of:

7 1. The Division of Special Investigations, headed by a division director
8 who shall report to the commissioner. The division shall investigate
9 alleged violations of the tax laws and recommend criminal prosecution
10 of the laws as warranted; and

11 2. The Division of Taxpayer Ombudsman, headed by a division director
12 who is appointed by the secretary pursuant to KRS 12.050, and who
13 shall report to the commissioner. The division shall perform those duties
14 set out in KRS 131.083;

15 (b) Office of Processing and Enforcement, headed by an executive director who
16 shall report directly to the commissioner. The office shall be responsible for
17 processing documents, depositing funds, collecting debt payments, and
18 coordinating, planning, and implementing a data integrity strategy. The office
19 shall consist of the:

20 1. Division of Operations, which shall be responsible for opening all tax
21 returns, preparing the returns for data capture, coordinating the data
22 capture process, depositing receipts, maintaining tax data, and assisting
23 other state agencies with similar operational aspects as negotiated
24 between the department and the other agency;

25 2. Division of Collections, which shall be responsible for initiating all
26 collection enforcement activity related to due and owing tax
27 assessments, including protest resolution, and for assisting other state

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

1 valuation administrators within the Commonwealth;

2 (d) Office of Sales and Excise Taxes, headed by an executive director who shall
3 report directly to the commissioner. The office shall administer all matters
4 relating to sales and use taxes and miscellaneous excise taxes, including but
5 not limited to technical tax research, compliance, taxpayer assistance, tax-
6 specific training, and publications. The office shall consist of the:

7 1. Division of Sales and Use Tax, which shall administer the sales and use
8 tax; and

9 2. Division of Miscellaneous Taxes, which shall administer various other
10 taxes, including but not limited to alcoholic beverage taxes; cigarette
11 enforcement fees, stamps, meters, and taxes; gasoline tax; bank
12 franchise tax; inheritance and estate tax; insurance premiums and
13 insurance surcharge taxes; motor vehicle tire fees and usage taxes; and
14 special fuels taxes;

15 (e) Office of Income Taxation, headed by an executive director who shall report
16 directly to the commissioner. The office shall administer all matters related to
17 income and corporation license taxes, including technical tax research,
18 compliance, taxpayer assistance, tax-specific training, and publications. The
19 office shall consist of the:

20 1. Division of Individual Income Tax, which shall administer the following
21 taxes or returns: individual income, fiduciary, and employer
22 withholding; and

23 2. Division of Corporation Tax, which shall administer the corporation
24 income tax, corporation license tax, pass-through entity withholding,
25 and pass-through entity reporting requirements; and

26 (f) Office of Field Operations, headed by an executive director who shall report
27 directly to the commissioner. The office shall manage the regional taxpayer

1 service centers and the field audit program.

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

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

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

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