AN ACT relating to disaster response businesses and employees.

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

➔Section 1. KRS 141.020 is amended to read as follows:

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

(2) (a) As used in this subsection:

1. "Balance in the BRTF at the end of a fiscal year" means the budget reserve trust fund account established in KRS 48.705 and includes the following amounts and actions resulting from the final close of the fiscal year:

a. The amount of moneys in the fund at the end of a fiscal year;

b. All close-out actions related to a budget reduction plan under KRS 48.130 or as modified in a branch budget bill; and

c. All close-out actions related to the surplus expenditure plan under KRS 48.140 or as modified in a branch budget bill;

2. "GF appropriations" means the authorization by the General Assembly to expend GF moneys, excluding:

a. Continuing appropriations;

b. Any appropriation to the budget reserve trust fund; and

c. Any lump-sum appropriation to a state-administered retirement system, as defined in KRS 7A.210, that is in excess of the appropriations specifically budgeted to meet the recurring statutorily required contributions or recurring actuarially determined contributions for a state-administered retirement system under KRS 21.525, 61.565, 61.702, 78.635, 78.5536, or

161.550, as applicable;

3. "GF moneys" means receipts deposited in the general fund defined in KRS 48.010, excluding tobacco moneys deposited in the fund established in KRS 248.654;

4. "IIT equivalent" means the amount of reduction in GF moneys resulting from a one (1) percentage point reduction to the individual income tax rate and shall be calculated by dividing the actual individual income tax receipts for the fiscal year under consideration by:

a. The sum of:

i. The individual income tax rate, expressed as a percentage, for the first six (6) months of the fiscal year; and

ii. The individual income tax rate, expressed as a percentage, for the second six (6) months of the fiscal year; and

b. Dividing the sum determined in subdivision a. of this subparagraph by two (2);

5. "Reduction conditions" means:

a. The balance in the BRTF at the end of a fiscal year shall be equal to or greater than ten percent (10%) of the GF moneys for that fiscal year; and

b. GF moneys at the end of a fiscal year shall be equal to or greater than GF appropriations for that fiscal year plus the IIT equivalent for that fiscal year; and

6. "Tax rate reduction" means the current tax rate minus five-tenths of one percent (0.5%).

(b) For taxable years beginning on or after January 1, 2023, but prior to January 1, 2024, the tax shall be four and one-half percent (4.5%) of net income.

(c) For taxable years beginning on or after January 1, 2024, the tax shall be four percent (4%) of net income.

(d) 1. For taxable years beginning on or after January 1, 2025, the income tax rate may be reduced according to the annual process established in subparagraphs 2. to 5. of this paragraph.

2. The Office of State Budget Director shall review the reduction conditions for the fiscal year 2022-2023 no later than September 1, 2023.

3. After reviewing the reduction conditions under subparagraph 2. of this paragraph, the Office of State Budget Director shall, no later than September 5, 2023, report to the Interim Joint Committee on Appropriations and Revenue:

a. Whether the reduction conditions for the fiscal year 2022-2023 have been met; and

b. The amounts associated with each item within the reduction conditions used for making that determination.

4. a. If the reduction conditions have been met for fiscal year 2022-2023, the General Assembly may take action to reduce the rate in paragraph (c) of this subsection for the taxable year beginning January 1, 2025.

b. If the reduction conditions have not been met for fiscal year 2022-2023 or the General Assembly does not take action to reduce the rate in paragraph (c) of this subsection, the department shall maintain the rate in paragraph (c) of this subsection for the taxable year beginning January 1, 2025.

5. a. The Office of State Budget Director shall implement an annual process to review and report future reduction conditions at the same time and in the same manner for each fiscal year subsequent

to the fiscal year 2022-2023 and each taxable year subsequent to the taxable year beginning January 1, 2025.

b. The department shall not implement an income tax rate reduction without an action by the General Assembly.

c. The annual process shall continue until the income tax rate is zero.

(e) For taxable years beginning on or after January 1, 2018, but before January 1, 2023, the tax shall be five percent (5%) of net income.

(f) For taxable years beginning after December 31, 2004, and before 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. 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).

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

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

2. a. For taxable years beginning before January 1, 2014, 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; and

b. For taxable years beginning on or after January 1, 2014, and before January 1, 2018, ten dollars ($10) for a married individual filing a separate return and an additional ten dollars ($10) for the spouse of a 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 twenty dollars ($20) 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. a. For taxable years beginning before January 1, 2014, twenty dollars ($20) credit for each dependent. No credit shall be allowed for any

dependent who has made a joint return with his or her spouse; and

b. For taxable years beginning on or after January 1, 2014, and before January 1, 2018, ten dollars ($10) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his or her 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;

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

7. 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 is blind, 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; and

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

(b) In the case of nonresidents, the tax credits allowable under this subsection shall be the portion of the credits that are represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.019 to the taxpayer's adjusted gross income as defined in Section 62 of the Internal

Revenue Code. However, in the case of a married nonresident taxpayer with income from Kentucky sources, whose spouse has no income from Kentucky sources, the taxpayer shall determine allowable tax credit(s) by either:

1. The method contained above applied to the taxpayer's tax credit(s), excluding credits for a spouse and dependents; or
2. Prorating the taxpayer's tax credit(s) plus the tax credits for the taxpayer's spouse and dependents by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.019 to the total joint federal adjusted gross income of the taxpayer and the taxpayer's spouse.

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

(4) An annual tax shall be paid for each taxable year as specified in this section upon the entire net income except as herein provided, from all tangible property located in this state, from all intangible property that has acquired a business situs in this state, and from business, trade, profession, occupation, or other activities carried on in this state, by natural persons not residents of this state. A nonresident individual shall be taxable only upon the amount of income received by the individual from labor performed, business done, or from other activities in this state, from tangible property located in this state, and from intangible property which has acquired a business situs in this state; provided, however, that the situs of intangible personal property shall be at the residence of the real or beneficial owner and not at the residence of a trustee having custody or possession thereof. For taxable years beginning on or after January 1, 2021, ~~[but before January 1, 2025,]~~the tax

imposed by this section shall not apply to a disaster response employee or to a disaster response business. The remainder of the income received by such nonresident shall be deemed nontaxable by this state.

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

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

➔Section 2. KRS 141.040 is amended to read as follows:

(1) Every corporation doing business in this state, except those corporations listed in paragraphs (a) and (b) of this subsection, shall pay for each taxable year a tax to be computed by the taxpayer on taxable net income at the rates specified in this section:

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

1. Financial institutions, as defined in KRS 136.500, except bankers banks organized under KRS 286.3-135;
2. Savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only;
3. Banks for cooperatives;
4. Production credit associations;
5. Insurance companies, including farmers' or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;
6. Corporations or other entities exempt under Section 501 of the Internal Revenue Code;
7. Religious, educational, charitable, or like corporations not organized or

conducted for pecuniary profit; and

8. Corporations whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, provided that:

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

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

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

1. Insurance companies, including farmers' or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;

2. Corporations or other entities exempt under Section 501 of the Internal Revenue Code;

3. Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit;

4. Corporations whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, provided that:

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

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

5. ~~[For taxable years beginning before January 1, 2025,]~~A disaster response business.

(2) For taxable years beginning on or after January 1, 2018, the rate of five percent (5%) of taxable net income shall apply.

(3) For taxable years beginning on or after January 1, 2007, and before January 1, 2018, the following rates shall apply:

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

(b) Five percent (5%) of taxable net income over fifty thousand dollars ($50,000) up to one hundred thousand dollars ($100,000); and

(c) Six percent (6%) of taxable net income over one hundred thousand dollars ($100,000).

(4) (a) An S corporation shall 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.