

1 AN ACT relating to an exemption of sales and use tax for certain nonprofits.

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

3 ➔Section 1. KRS 139.495 is amended to read as follows:

4 (1) **As used in this section, "resident nonprofit educational, charitable, or religious**
5 **institution" means**~~[The taxes imposed by this chapter shall apply to]:~~

6 (a) A resident, nonprofit educational, charitable, or religious
7 **institution**~~[institutions]~~ which **has**~~[have]~~ qualified for exemption from income
8 taxation under Section 501(c)(3) of the Internal Revenue Code; and

9 (b) Any resident, single member limited liability company that is:

10 1. Wholly owned and controlled by a resident or nonresident, nonprofit
11 educational, charitable, or religious institution which has qualified for
12 exemption from income taxation under Section 501(c)(3) of the Internal
13 Revenue Code; and

14 2. Disregarded as an entity separate from the resident or nonresident,
15 nonprofit educational, charitable, or religious institution for federal
16 income tax purposes pursuant to 26 C.F.R. sec. 301.7701-2~~;~~

17 ~~as provided in this section].~~

18 (2) (a) **For resident, nonprofit educational, charitable, or religious institutions,**
19 **except as provided in paragraph (b) of this subsection, the taxes imposed by**
20 **this chapter do**~~[Tax does]~~ not apply to:

21 1. **Purchases**~~[Sales]~~ of tangible personal property, digital property, or
22 services **made by**~~[to]~~ these institutions~~[or limited liability companies~~
23 ~~described in subsection (1) of this section]~~, provided the tangible
24 personal property, digital property, or service is to be used solely in this
25 state within the educational, charitable, or religious function; **and**

26 2. **Sales of tangible personal property, digital property, or services by**
27 **these institutions**~~[Sales of food to students in school cafeterias or~~

1 lunchrooms;

2 ~~3.—Sales by school bookstores of textbooks, workbooks, and other course~~
3 ~~materials;~~

4 ~~4.—Sales by nonprofit, school sponsored clubs and organizations, provided~~
5 ~~such sales do not include tickets for athletic events;~~

6 ~~5.—Sales of admissions, including the sales of admissions to a golf course~~
7 ~~when the admission is the result of a fundraising event, by nonprofit~~
8 ~~educational, charitable, or religious institutions described in subsection~~
9 ~~(1) of this section. All other sales of admissions to a golf course by these~~
10 ~~institutions are not exempt from tax under this section; or~~

11 ~~6. a.—Fundraising event sales made by nonprofit educational, charitable,~~
12 ~~or religious institutions and limited liability companies described~~
13 ~~in subsection (1) of this section.~~

14 ~~b.—For the purposes of this subparagraph, "fundraising event sales"~~
15 ~~does not include sales related to the operation of a retail business,~~
16 ~~including but not limited to thrift stores, bookstores, surplus~~
17 ~~property auctions, recycle and reuse stores, or any ongoing~~
18 ~~operations in competition with for profit retailers].~~

19 (b) The exemptions provided in ~~[subparagraphs 5. and 6. of paragraph (a) of]~~this
20 subsection shall not apply to sales:

21 1. Generated by or arising at a tourism development project approved
22 under KRS 148.851 to 148.860; or

23 2. *Generated by a resident nonprofit educational, charitable, or religious*
24 *institution that qualifies for a refund of a portion of the tax collected*
25 *on its sales of donated goods as provided in subsection (3) of this*
26 *section.*

27 (3) *A resident, nonprofit educational, charitable, or religious*~~[An]~~ institution shall be

1 entitled to a refund equal to twenty-five percent (25%) of the tax collected on its
2 sale of donated goods if the refund is used exclusively as reimbursement for capital
3 construction costs of additional retail locations in this state, provided the institution:

- 4 (a) Routinely sells donated items;
- 5 (b) Provides job training and employment to individuals with workplace
6 disadvantages and disabilities;
- 7 (c) Spends at least seventy-five percent (75%) of its annual revenue on job
8 training, job placement, or other related community services;
- 9 (d) Submits a refund application to the department within sixty (60) days after the
10 new retail location opens for business; and
- 11 (e) Provides records of capital construction costs for the new retail location and
12 any other information the department deems necessary to process the refund.

13 The maximum refund allowed for any location shall not exceed one million dollars
14 (\$1,000,000). As used in this subsection, "capital construction cost" means the cost
15 of construction of any new facilities or the purchase and renovation of any existing
16 facilities, but does not include the cost of real property other than real property
17 designated as a brownfield site as defined in KRS 65.680(4).

18 (4) Notwithstanding any other provision of law to the contrary, refunds under
19 subsection (3) of this section shall be made directly to the institution. Interest shall
20 not be allowed or paid on the refund. The department may examine any refund
21 within four (4) years from the date the refund application is received. Any
22 overpayment shall be subject to the interest provisions of KRS 131.183 and the
23 penalty provisions of KRS 131.180.

24 ~~[(5) All other sales made by nonprofit educational, charitable, or religious institutions~~
25 ~~or limited liability companies described in subsection (1) of this section are taxable~~
26 ~~and the tax may be passed on to the purchaser as provided in KRS 139.210].~~