

1 AN ACT relating to an exemption of income taxation for military pensions.

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

3 ➔Section 1. KRS 141.019 is amended to read as follows:

4 For taxable years beginning on or after January 1, 2018, in the case of taxpayers other  
5 than corporations:

6 (1) Adjusted gross income shall be calculated by subtracting from the gross income of  
7 those taxpayers the deductions allowed individuals by Section 62 of the Internal  
8 Revenue Code and adjusting as follows:

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

11 (b) Exclude income from supplemental annuities provided by the Railroad  
12 Retirement Act of 1937 as amended and which are subject to federal income  
13 tax by Pub. L. No. 89-699;

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

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

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

23 (f) Exclude any money received because of a settlement or judgment in a lawsuit  
24 brought against a manufacturer or distributor of "Agent Orange" for damages  
25 resulting from exposure to Agent Orange by a member or veteran of the  
26 Armed Forces of the United States or any dependent of such person who  
27 served in Vietnam;

1 (g) 1.~~1.—a.~~ For taxable years beginning after December 31, 2005, but before  
2 January 1, 2018, exclude up to forty-one thousand one hundred ten  
3 dollars (\$41,110) of total distributions from pension plans, annuity  
4 contracts, profit-sharing plans, retirement plans, or employee savings  
5 plans.~~1; and~~

6 ~~2.1b.~~ For taxable years beginning on or after January 1, 2018, but before  
7 January 1, 2021, exclude up to thirty-one thousand one hundred ten  
8 dollars (\$31,110) of total distributions from pension plans, annuity  
9 contracts, profit-sharing plans, retirement plans, or employee savings  
10 plans.

11 3. a. For taxable years beginning on or after January 1, 2021,  
12 exclude all distributions from military pension plans received by  
13 retired members of the Armed Forces of the United States,  
14 members of reserve components of the Armed Forces of the  
15 United States, and members of the National Guard.

16 b. For any remaining income, exclude up to thirty-one thousand  
17 one hundred ten dollars (\$31,110) of total distributions from  
18 pension plans, annuity contracts, profit-sharing plans,  
19 retirement plans, or employee savings plans.

20 c. The purpose of the exclusion in subdivision a. of this  
21 subparagraph is to encourage military personnel to remain  
22 residents of Kentucky after retirement.

23 d. The department shall provide the following information to the  
24 Interim Joint Committee on Appropriations and Revenue no  
25 later than December 1, 2022, and on or before each December 1  
26 thereafter as long as the exclusions provided by subdivisions a.  
27 and b. of this subparagraph are claimed on any return filed:

- 1 i. The number of tax returns claiming each exclusion by  
2 taxable year;
- 3 ii. The total amount of each exclusion claimed;
- 4 iii. The total amount of the reduced tax liability from each  
5 exclusion by taxable year;
- 6 iv. For each exclusion, the cumulative total of the reduced tax  
7 liability by county, based on the mailing address on the  
8 return claiming the exclusion, for each taxable year;
- 9 v. Based on ranges of adjusted gross income of no larger than  
10 five thousand dollars (\$5,000), the total amount of the  
11 reduced tax liability from each exclusion claimed by the  
12 adjusted gross income range for each taxable year;
- 13 vi. The number of returns filed by taxable year claiming the  
14 exclusion provided in subparagraph 3.a. of this paragraph  
15 for the first time;
- 16 vii. The number of returns filed by taxable year claiming the  
17 exclusion provided in subparagraph 3.a. of this paragraph  
18 for two (2) to five (5) consecutive years; and
- 19 viii. The number of returns filed by taxable year claiming the  
20 exclusion provided in subparagraph 3.a. of this paragraph  
21 for five (5) or more consecutive years.

22 4.[2.] As used in this paragraph:

- 23 a. "Annuity contract" has the same meaning as set forth in Section  
24 1035 of the Internal Revenue Code;
- 25 b. "Distributions" includes but is not limited to any lump-sum  
26 distribution from pension or profit-sharing plans qualifying for the  
27 income tax averaging provisions of Section 402 of the Internal

- 1 Revenue Code; any distribution from an individual retirement  
2 account as defined in Section 408 of the Internal Revenue Code;  
3 and any disability pension distribution; and
- 4 c. "Pension plans, profit-sharing plans, retirement plans, or employee  
5 savings plans" means any trust or other entity created or organized  
6 under a written retirement plan and forming part of a stock bonus,  
7 pension, or profit-sharing plan of a public or private employer for  
8 the exclusive benefit of employees or their beneficiaries and  
9 includes plans qualified or unqualified under Section 401 of the  
10 Internal Revenue Code and individual retirement accounts as  
11 defined in Section 408 of the Internal Revenue Code;
- 12 (h) 1. a. Exclude the portion of the distributive share of a shareholder's net  
13 income from an S corporation subject to the franchise tax imposed  
14 under KRS 136.505 or the capital stock tax imposed under KRS  
15 136.300; and
- 16 b. Exclude the portion of the distributive share of a shareholder's net  
17 income from an S corporation related to a qualified subchapter S  
18 subsidiary subject to the franchise tax imposed under KRS  
19 136.505 or the capital stock tax imposed under KRS 136.300.
- 20 2. The shareholder's basis of stock held in an S corporation where the S  
21 corporation or its qualified subchapter S subsidiary is subject to the  
22 franchise tax imposed under KRS 136.505 or the capital stock tax  
23 imposed under KRS 136.300 shall be the same as the basis for federal  
24 income tax purposes;
- 25 (i) Exclude income received for services performed as a precinct worker for  
26 election training or for working at election booths in state, county, and local  
27 primaries or regular or special elections;

- 1 (j) Exclude any capital gains income attributable to property taken by eminent  
2 domain;
- 3 (k) 1. Exclude all income from all sources for active duty and reserve members  
4 and officers of the Armed Forces of the United States or National Guard  
5 who are killed in the line of duty, for the year during which the death  
6 occurred and the year prior to the year during which the death occurred.  
7 2. For the purposes of this paragraph, "all income from all sources" shall  
8 include all federal and state death benefits payable to the estate or any  
9 beneficiaries;
- 10 (l) Exclude all military pay received by active duty members of the Armed Forces  
11 of the United States, members of reserve components of the Armed Forces of  
12 the United States, and members of the National Guard, including  
13 compensation for state active duty as described in KRS 38.205;
- 14 (m) 1. Include the amount deducted for depreciation under 26 U.S.C. sec. 167  
15 or 168; and  
16 2. Exclude the amounts allowed by KRS 141.0101 for depreciation; and
- 17 (n) Include the amount deducted under 26 U.S.C. sec. 199A; and
- 18 (2) Net income shall be calculated by subtracting from adjusted gross income all the  
19 deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as  
20 modified by KRS 141.0101, except:
- 21 (a) Any deduction allowed by 26 U.S.C. sec. 163 for investment interest;  
22 (b) Any deduction allowed by 26 U.S.C. sec. 164 for taxes;  
23 (c) Any deduction allowed by 26 U.S.C. sec. 165 for losses;  
24 (d) Any deduction allowed by 26 U.S.C. sec. 213 for medical care expenses;  
25 (e) Any deduction allowed by 26 U.S.C. sec. 217 for moving expenses;  
26 (f) Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous  
27 deduction;

- 1 (g) Any deduction allowed by the Internal Revenue Code for amounts allowable  
2 under KRS 140.090(1)(h) in calculating the value of the distributive shares of  
3 the estate of a decedent, unless there is filed with the income return a  
4 statement that the deduction has not been claimed under KRS 140.090(1)(h);
- 5 (h) Any deduction allowed by 26 U.S.C. sec. 151 for personal exemptions and  
6 any other deductions in lieu thereof;
- 7 (i) Any deduction allowed for amounts paid to any club, organization, or  
8 establishment which has been determined by the courts or an agency  
9 established by the General Assembly and charged with enforcing the civil  
10 rights laws of the Commonwealth, not to afford full and equal membership  
11 and full and equal enjoyment of its goods, services, facilities, privileges,  
12 advantages, or accommodations to any person because of race, color, religion,  
13 national origin, or sex, except nothing shall be construed to deny a deduction  
14 for amounts paid to any religious or denominational club, group, or  
15 establishment or any organization operated solely for charitable or educational  
16 purposes which restricts membership to persons of the same religion or  
17 denomination in order to promote the religious principles for which it is  
18 established and maintained; and
- 19 (j) A taxpayer may elect to claim the standard deduction allowed by KRS  
20 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63  
21 and as modified by this section.

22 ➔Section 2. KRS 131.190 is amended to read as follows:

- 23 (1) No present or former commissioner or employee of the department, present or  
24 former member of a county board of assessment appeals, present or former property  
25 valuation administrator or employee, present or former secretary or employee of the  
26 Finance and Administration Cabinet, former secretary or employee of the Revenue  
27 Cabinet, or any other person, shall intentionally and without authorization inspect or

1           divulge any information acquired by him of the affairs of any person, or information  
2           regarding the tax schedules, returns, or reports required to be filed with the  
3           department or other proper officer, or any information produced by a hearing or  
4           investigation, insofar as the information may have to do with the affairs of the  
5           person's business.

6       (2) The prohibition established by subsection (1) of this section shall not extend to:

- 7           (a) Information required in prosecutions for making false reports or returns of  
8           property for taxation, or any other infraction of the tax laws;
- 9           (b) Any matter properly entered upon any assessment record, or in any way made  
10          a matter of public record;
- 11          (c) Furnishing any taxpayer or his properly authorized agent with information  
12          respecting his own return;
- 13          (d) Testimony provided by the commissioner or any employee of the department  
14          in any court, or the introduction as evidence of returns or reports filed with the  
15          department, in an action for violation of state or federal tax laws or in any  
16          action challenging state or federal tax laws;
- 17          (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or  
18          energy resources assessed under KRS 132.820, or owners of surface land  
19          under which the unmined minerals lie, factual information about the owner's  
20          property derived from third-party returns filed for that owner's property, under  
21          the provisions of KRS 132.820, that is used to determine the owner's  
22          assessment. This information shall be provided to the owner on a confidential  
23          basis, and the owner shall be subject to the penalties provided in KRS  
24          131.990(2). The third-party filer shall be given prior notice of any disclosure  
25          of information to the owner that was provided by the third-party filer;
- 26          (f) Providing to a third-party purchaser pursuant to an order entered in a  
27          foreclosure action filed in a court of competent jurisdiction, factual

1 information related to the owner or lessee of coal, oil, gas reserves, or any  
2 other mineral resources assessed under KRS 132.820. The department may  
3 promulgate an administrative regulation establishing a fee schedule for the  
4 provision of the information described in this paragraph. Any fee imposed  
5 shall not exceed the greater of the actual cost of providing the information or  
6 ten dollars (\$10);

7 (g) Providing information to a licensing agency, the Transportation Cabinet, or  
8 the Kentucky Supreme Court under KRS 131.1817;

9 (h) Statistics of gasoline and special fuels gallonage reported to the department  
10 under KRS 138.210 to 138.448;

11 (i) Providing any utility gross receipts license tax return information that is  
12 necessary to administer the provisions of KRS 160.613 to 160.617 to  
13 applicable school districts on a confidential basis; or

14 (j) Providing information to the Legislative Research Commission under:

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

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

18 3. KRS 141.437 for purposes of the ENERGY STAR home and the  
19 ENERGY STAR manufactured home credits;

20 4. KRS 148.544 for purposes of the film industry incentives;

21 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization  
22 tax credits and the job assessment fees;

23 6. KRS 141.068 for purposes of the Kentucky investment fund;

24 7. KRS 141.396 for purposes of the angel investor tax credit;

25 8. KRS 141.389 for purposes of the distilled spirits credit;~~and~~

26 9. KRS 141.408 for purposes of the inventory credit; ***and***

27 ***10. Section 1 of this Act for purposes of the adjusted gross income***



1                                   *deduction for distributions from military pension plans.*

- 2       (3)   The commissioner shall make available any information for official use only and on  
3           a confidential basis to the proper officer, agency, board or commission of this state,  
4           any Kentucky county, any Kentucky city, any other state, or the federal government,  
5           under reciprocal agreements whereby the department shall receive similar or useful  
6           information in return.
- 7       (4)   Access to and inspection of information received from the Internal Revenue Service  
8           is for department use only, and is restricted to tax administration purposes.  
9           Information received from the Internal Revenue Service shall not be made available  
10          to any other agency of state government, or any county, city, or other state, and shall  
11          not be inspected intentionally and without authorization by any present secretary or  
12          employee of the Finance and Administration Cabinet, commissioner or employee of  
13          the department, or any other person.
- 14       (5)   Statistics of crude oil as reported to the Department of Revenue under the crude oil  
15          excise tax requirements of KRS Chapter 137 and statistics of natural gas production  
16          as reported to the Department of Revenue under the natural resources severance tax  
17          requirements of KRS Chapter 143A may be made public by the department by  
18          release to the Energy and Environment Cabinet, Department for Natural Resources.
- 19       (6)   Notwithstanding any provision of law to the contrary, beginning with mine-map  
20          submissions for the 1989 tax year, the department may make public or divulge only  
21          those portions of mine maps submitted by taxpayers to the department pursuant to  
22          KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-  
23          out parcel areas. These electronic maps shall not be relied upon to determine actual  
24          boundaries of mined-out parcel areas. Property boundaries contained in mine maps  
25          required under KRS Chapters 350 and 352 shall not be construed to constitute land  
26          surveying or boundary surveys as defined by KRS 322.010 and any administrative  
27          regulations promulgated thereto.