

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 In the case of taxpayers other than corporations:

- 5 (1) Adjusted gross income shall be calculated by subtracting from the gross income of
6 those taxpayers the deductions allowed individuals by Section 62 of the Internal
7 Revenue Code and adjusting as follows:
- 8 (a) Exclude income that is exempt from state taxation by the Kentucky
9 Constitution and the Constitution and statutory laws of the United States;
 - 10 (b) Exclude income from supplemental annuities provided by the Railroad
11 Retirement Act of 1937 as amended and which are subject to federal income
12 tax by Pub. L. No. 89-699;
 - 13 (c) Include interest income derived from obligations of sister states and political
14 subdivisions thereof;
 - 15 (d) Exclude employee pension contributions picked up as provided for in KRS
16 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610,
17 and 161.540 upon a ruling by the Internal Revenue Service or the federal
18 courts that these contributions shall not be included as gross income until such
19 time as the contributions are distributed or made available to the employee;
 - 20 (e) Exclude Social Security and railroad retirement benefits subject to federal
21 income tax;
 - 22 (f) Exclude any money received because of a settlement or judgment in a lawsuit
23 brought against a manufacturer or distributor of "Agent Orange" for damages
24 resulting from exposure to Agent Orange by a member or veteran of the
25 Armed Forces of the United States or any dependent of such person who
26 served in Vietnam;
 - 27 (g) 1. a. For taxable years beginning after December 31, 2005, but before

1 January 1, 2018, exclude up to forty-one thousand one hundred ten
2 dollars (\$41,110) of total distributions from pension plans, annuity
3 contracts, profit-sharing plans, retirement plans, or employee
4 savings plans;~~and~~

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

9 c. For taxable years beginning on or after January 1, 2022, but
10 before January 1, 2026, in addition to the exclusion provided in
11 subdivisions b. of this subparagraph, exclude all distributions
12 from military pension plans received by a:

13 i. Retired member of the active duty components of the
14 Armed Forces of the United States;

15 ii. Retired member of the reserve components of the Armed
16 Forces of the United States;

17 iii. Retired member of the National Guard; and

18 iv. Retired member's surviving spouse or former spouse under
19 a survivor benefit plan derived from the retired member's
20 military pension plan.

21 2. a. The purpose of the military pension deduction is to encourage
22 military personnel and military families to remain residents of
23 Kentucky after retirement.

24 b. The department shall provide the following information to the
25 Legislative Research commission no later than December 1,
26 2023, and on or before each December 1 thereafter as long as
27 the deduction is claimed on any return filed:

- 1 *i. The number of tax returns claiming the deduction for each*
- 2 *taxable year;*
- 3 *ii. The total amount of the deductions claimed and the total*
- 4 *amount of the reduced tax liability for each taxable year;*
- 5 *iii. The cumulative total of the reduced tax liability by county,*
- 6 *based on the mailing address on the return claiming the*
- 7 *deduction, for each taxable year; and*
- 8 *iv. Based on ranges of adjusted gross income of no larger than*
- 9 *five thousand dollars (\$5,000), the total amount of the*
- 10 *reduced tax liability for each adjusted gross income range*
- 11 *for each taxable year.*

12 3.[2.] As used in this paragraph:

- 13 a. "Annuity contract" has the same meaning as set forth in Section
- 14 1035 of the Internal Revenue Code;
- 15 b. "Distributions" includes but is not limited to any lump-sum
- 16 distribution from pension or profit-sharing plans qualifying for the
- 17 income tax averaging provisions of Section 402 of the Internal
- 18 Revenue Code; any distribution from an individual retirement
- 19 account as defined in Section 408 of the Internal Revenue Code;
- 20 and any disability pension distribution; and
- 21 c. "Pension plans, profit-sharing plans, retirement plans, or employee
- 22 savings plans" means any trust or other entity created or organized
- 23 under a written retirement plan and forming part of a stock bonus,
- 24 pension, or profit-sharing plan of a public or private employer for
- 25 the exclusive benefit of employees or their beneficiaries and
- 26 includes plans qualified or unqualified under Section 401 of the
- 27 Internal Revenue Code and individual retirement accounts as

- 1 defined in Section 408 of the Internal Revenue Code;
- 2 (h) 1. a. Exclude the portion of the distributive share of a shareholder's net
3 income from an S corporation subject to the franchise tax imposed
4 under KRS 136.505 or the capital stock tax imposed under KRS
5 136.300; and
- 6 b. Exclude the portion of the distributive share of a shareholder's net
7 income from an S corporation related to a qualified subchapter S
8 subsidiary subject to the franchise tax imposed under KRS
9 136.505 or the capital stock tax imposed under KRS 136.300.
- 10 2. The shareholder's basis of stock held in an S corporation where the S
11 corporation or its qualified subchapter S subsidiary is subject to the
12 franchise tax imposed under KRS 136.505 or the capital stock tax
13 imposed under KRS 136.300 shall be the same as the basis for federal
14 income tax purposes;
- 15 (i) 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 primaries or regular or special elections;
- 18 (j) Exclude any capital gains income attributable to property taken by eminent
19 domain;
- 20 (k) 1. Exclude all income from all sources for members of the Armed Forces
21 who are on active duty and who are killed in the line of duty, for the year
22 during which the death occurred and the year prior to the year during
23 which the death occurred.
- 24 2. For the purposes of this paragraph, "all income from all sources" shall
25 include all federal and state death benefits payable to the estate or any
26 beneficiaries;
- 27 (l) Exclude all military pay received by members of the Armed Forces while on

- 1 active duty;
- 2 (m) 1. Include the amount deducted for depreciation under 26 U.S.C. sec. 167
3 or 168; and
- 4 2. Exclude the amounts allowed by KRS 141.0101 for depreciation;
- 5 (n) Include the amount deducted under 26 U.S.C. sec. 199A;
- 6 (o) Ignore any change in the cost basis of the surviving spouse's share of property
7 owned by a Kentucky community property trust occurring for federal income
8 tax purposes as a result of the death of the predeceasing spouse; and
- 9 (p) Allow the same treatment allowed under Pub. L. No. 116-260, secs. 276 and
10 278, related to the tax treatment of forgiven covered loans, deductions
11 attributable to those loans, and tax attributes associated with those loans for
12 taxable years ending on or after March 27, 2020, but before January 1, 2022;
13 and
- 14 (2) Net income shall be calculated by subtracting from adjusted gross income all the
15 deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as
16 modified by KRS 141.0101, except:
- 17 (a) Any deduction allowed by 26 U.S.C. sec. 164 for taxes;
- 18 (b) Any deduction allowed by 26 U.S.C. sec. 165 for losses, except wagering
19 losses allowed under Section 165(d) of the Internal Revenue Code;
- 20 (c) Any deduction allowed by 26 U.S.C. sec. 213 for medical care expenses;
- 21 (d) Any deduction allowed by 26 U.S.C. sec. 217 for moving expenses;
- 22 (e) Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous
23 deduction;
- 24 (f) Any deduction allowed by the Internal Revenue Code for amounts allowable
25 under KRS 140.090(1)(h) in calculating the value of the distributive shares of
26 the estate of a decedent, unless there is filed with the income return a
27 statement that the deduction has not been claimed under KRS 140.090(1)(h);

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

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

- 19 (1) No present or former commissioner or employee of the department, present or
20 former member of a county board of assessment appeals, present or former property
21 valuation administrator or employee, present or former secretary or employee of the
22 Finance and Administration Cabinet, former secretary or employee of the Revenue
23 Cabinet, or any other person, shall intentionally and without authorization inspect or
24 divulge any information acquired by him or her of the affairs of any person, or
25 information regarding the tax schedules, returns, or reports required to be filed with
26 the department or other proper officer, or any information produced by a hearing or
27 investigation, insofar as the information may have to do with the affairs of the

1 person's business.

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

3 (a) Information required in prosecutions for making false reports or returns of
4 property for taxation, or any other infraction of the tax laws;

5 (b) Any matter properly entered upon any assessment record, or in any way made
6 a matter of public record;

7 (c) Furnishing any taxpayer or his or her properly authorized agent with
8 information respecting his or her own return;

9 (d) Testimony provided by the commissioner or any employee of the department
10 in any court, or the introduction as evidence of returns or reports filed with the
11 department, in an action for violation of state or federal tax laws or in any
12 action challenging state or federal tax laws;

13 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or
14 energy resources assessed under KRS 132.820, or owners of surface land
15 under which the unmined minerals lie, factual information about the owner's
16 property derived from third-party returns filed for that owner's property, under
17 the provisions of KRS 132.820, that is used to determine the owner's
18 assessment. This information shall be provided to the owner on a confidential
19 basis, and the owner shall be subject to the penalties provided in KRS
20 131.990(2). The third-party filer shall be given prior notice of any disclosure
21 of information to the owner that was provided by the third-party filer;

22 (f) Providing to a third-party purchaser pursuant to an order entered in a
23 foreclosure action filed in a court of competent jurisdiction, factual
24 information related to the owner or lessee of coal, oil, gas reserves, or any
25 other mineral resources assessed under KRS 132.820. The department may
26 promulgate an administrative regulation establishing a fee schedule for the
27 provision of the information described in this paragraph. Any fee imposed

- 1 shall not exceed the greater of the actual cost of providing the information or
2 ten dollars (\$10);
- 3 (g) Providing information to a licensing agency, the Transportation Cabinet, or
4 the Kentucky Supreme Court under KRS 131.1817;
- 5 (h) Statistics of gasoline and special fuels gallonage reported to the department
6 under KRS 138.210 to 138.448;
- 7 (i) Providing any utility gross receipts license tax return information that is
8 necessary to administer the provisions of KRS 160.613 to 160.617 to
9 applicable school districts on a confidential basis;
- 10 (j) Providing documents, data, or other information to a third party pursuant to an
11 order issued by a court of competent jurisdiction; or
- 12 (k) Providing information to the Legislative Research Commission under:
- 13 1. KRS 139.519 for purposes of the sales and use tax refund on building
14 materials used for disaster recovery;
- 15 2. KRS 141.436 for purposes of the energy efficiency products credits;
- 16 3. KRS 141.437 for purposes of the ENERGY STAR home and the
17 ENERGY STAR manufactured home credits;
- 18 4. KRS 141.383 for purposes of the film industry incentives;
- 19 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization
20 tax credits and the job assessment fees;
- 21 6. KRS 141.068 for purposes of the Kentucky investment fund;
- 22 7. KRS 141.396 for purposes of the angel investor tax credit;
- 23 8. KRS 141.389 for purposes of the distilled spirits credit;
- 24 9. KRS 141.408 for purposes of the inventory credit;
- 25 10. KRS 141.390 for purposes of the recycling and composting credit;
- 26 11. KRS 141.3841 for purposes of the selling farmer tax credit;
- 27 12. KRS 141.4231 for purposes of the renewable chemical production tax

1 credit;

2 13. KRS 141.524 for purposes of the Education Opportunity Account
3 Program tax credit;

4 14. KRS 141.398 for purposes of the development area tax credit;~~and~~

5 15. KRS 139.516 for the purposes of the sales and use tax exemption on the
6 commercial mining of cryptocurrency; and

7 16. Section 1 of this Act for purposes of the adjusted gross income
8 deduction for distributions from military pension plans.

9 (3) The commissioner shall make available any information for official use only and on
10 a confidential basis to the proper officer, agency, board or commission of this state,
11 any Kentucky county, any Kentucky city, any other state, or the federal government,
12 under reciprocal agreements whereby the department shall receive similar or useful
13 information in return.

14 (4) Access to and inspection of information received from the Internal Revenue Service
15 is for department use only, and is restricted to tax administration purposes.
16 Information received from the Internal Revenue Service shall not be made available
17 to any other agency of state government, or any county, city, or other state, and shall
18 not be inspected intentionally and without authorization by any present secretary or
19 employee of the Finance and Administration Cabinet, commissioner or employee of
20 the department, or any other person.

21 (5) Statistics of crude oil as reported to the department under the crude oil excise tax
22 requirements of KRS Chapter 137 and statistics of natural gas production as
23 reported to the department under the natural resources severance tax requirements
24 of KRS Chapter 143A may be made public by the department by release to the
25 Energy and Environment Cabinet, Department for Natural Resources.

26 (6) Notwithstanding any provision of law to the contrary, beginning with mine-map
27 submissions for the 1989 tax year, the department may make public or divulge only

1 those portions of mine maps submitted by taxpayers to the department pursuant to
2 KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-
3 out parcel areas. These electronic maps shall not be relied upon to determine actual
4 boundaries of mined-out parcel areas. Property boundaries contained in mine maps
5 required under KRS Chapters 350 and 352 shall not be construed to constitute land
6 surveying or boundary surveys as defined by KRS 322.010 and any administrative
7 regulations promulgated thereto.