

1 AN ACT relating to tax credits for airport noise mitigation.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) As used in this section:*

6 *(a) "DNL" means the day-night average sound level as determined by the*
7 *Federal Aviation Administration in accordance with 14 C.F.R. pt. 150;*

8 *(b) "Noise mitigation costs" means the cost associated with replacing,*
9 *repairing, or installing doors, windows, insulation, and other approved*
10 *products in accordance with a noise compatibility plan of an airport, as*
11 *approved by the Federal Aviation Administration;*

12 *(c) "Noise compatibility plan" means a plan developed by or for an airport that*
13 *addresses noise levels surrounding the airport, and is approved by the*
14 *Federal Aviation Administration;*

15 *(d) "Noise contour" means a line on an airport's noise exposure map that*
16 *represents equal levels of noise exposure; and*

17 *(e) "Noise exposure map" means the map created and approved in accordance*
18 *with 14 C.F.R. pt. 150, and currently in effect, that shows the level of noise*
19 *exposure surrounding a commercial airport.*

20 *(2) For taxable years beginning on or after January 1, 2018, but before January 1,*
21 *2022, there is allowed a refundable credit against the tax imposed by KRS*
22 *141.020 or 141.040 and 141.0401 in an amount determined under subsection (3)*
23 *of this section, and with the ordering of credits as provided in Section 9 of this*
24 *Act, for a taxpayer who:*

25 *(a) Owns a residential structure located within the 60 DNL or higher noise*
26 *contour as shown on the noise exposure map for a commercial airport*
27 *located within the Commonwealth;*

1 (b) Incurs noise mitigation costs on the structure referenced in paragraph (a)
2 of this subsection in a manner consistent with the airport's noise
3 compatibility plan; and

4 (c) Does not receive any payment or reimbursement pursuant to the airport's
5 noise compatibility plan for noise mitigation costs for the structure
6 referenced in paragraph (a) of this subsection.

7 (3) (a) The credit allowed in subsection (2) of this section shall be one hundred
8 percent (100%) of the noise mitigation costs incurred by the taxpayer that
9 would have been paid for or reimbursed if the structure had been located in
10 a higher DNL noise contour and had been mitigated pursuant to an
11 approved noise compatibility plan, and shall include costs incurred on or
12 after January 1, 2009.

13 (b) A taxpayer who incurs noise mitigation costs shall file an application with
14 the department to apply for the noise mitigation credit.

15 (c) Credits shall be awarded to applicants based on the earliest receipt of
16 application by the department. Applicants approved for credits shall be
17 notified by the department as approved, but by no later than January 31 of
18 the year following the year of application.

19 (d) 1. The maximum credit awarded to all taxpayers for each taxable year
20 shall be three million dollars (\$3,000,000).

21 2. If the amount of credit shown on applications received by the
22 department for a given taxable year exceeds the limitation provided by
23 subparagraph 1. of this paragraph, those applications which exceed
24 the limitation shall be held and applied to the next taxable year.

25 (4) (a) The purpose of this section is to assist taxpayers with the costs of noise
26 mitigation for a residential structure located within the 60 DNL or higher
27 noise contour.

1 (b) On or before December 1, 2019, and on or before each December 1
 2 thereafter as long as the credits are available under this section, the
 3 department shall report to the Legislative Research Commission:

4 1. The total number of individual income tax returns filed, by year,
 5 claiming the credit permitted by subsection (2) of this section;

6 2. The total number of business income tax returns filed, by year,
 7 claiming the credit permitted by subsection (2) of this section;

8 3. The total amount of credits claimed on individual income tax returns
 9 and the total amount of credits claimed on business tax returns;

10 4. The amount of credits claimed on individual income tax returns and
 11 the amount of credits claimed on business tax returns, by year the
 12 noise mitigation costs were incurred;

13 5. The total number of business income tax returns and the total amount
 14 of credit claimed for each county, based on the location where the
 15 noise mitigation costs are incurred;

16 6. The total number of individual income tax returns and the total
 17 amount of credit claimed for each county, based on the location where
 18 the noise mitigation costs are incurred; and

19 7. a. In the case of a taxpayer other than a corporation, based on
 20 ranges of adjusted gross income of no larger than five thousand
 21 dollars (\$5,000), the total amount of credit claimed for each
 22 adjusted gross income range; and

23 b. In the case of corporations, based on ranges of net income no
 24 larger than fifty thousand dollars (\$50,000), the total amount of
 25 credit claimed for each net income range.

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

27 (1)~~[(a)]~~ No present or former commissioner or employee of the department~~[-of~~

1 ~~Revenue~~, present or former member of a county board of assessment appeals,
 2 present or former property valuation administrator or employee, present or former
 3 secretary or employee of the Finance and Administration Cabinet, former secretary
 4 or employee of the Revenue Cabinet, or any other person, shall intentionally and
 5 without authorization inspect or divulge any information acquired by him of the
 6 affairs of any person, or information regarding the tax schedules, returns, or reports
 7 required to be filed with the department or other proper officer, or any information
 8 produced by a hearing or investigation, insofar as the information may have to do
 9 with the affairs of the person's business.

10 ~~(2)(b)~~ The prohibition established by subsection (1)~~paragraph (a)~~ of this section
 11 shall~~subsection does~~ not extend to:

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

14 ~~(b)(2)~~ Any matter properly entered upon any assessment record, or in any way
 15 made a matter of public record;

16 ~~(c)(3)~~ Furnishing any taxpayer or his properly authorized agent with
 17 information respecting his own return;

18 ~~(d)(4)~~ Testimony provided by the commissioner or any employee of the
 19 department~~of Revenue~~ in any court, or the introduction as evidence of
 20 returns or reports filed with the department, in an action for violation of state
 21 or federal tax laws or in any action challenging state or federal tax laws;

22 ~~(e)(5)~~ Providing an owner of unmined coal, oil or gas reserves, and other
 23 mineral or energy resources assessed under KRS 132.820~~(1)~~, or owners of
 24 surface land under which the unmined minerals lie, factual information about
 25 the owner's property derived from third-party returns filed for that owner's
 26 property, under the provisions of KRS 132.820~~(2)~~, that is used to determine
 27 the owner's assessment. This information shall be provided to the owner on a

1 confidential basis, and the owner shall be subject to the penalties provided in
 2 KRS 131.990~~(L)~~~~(21)~~. The third-party filer shall be given prior notice of any
 3 disclosure of information to the owner that was provided by the third-party
 4 filer;

5 ~~(f)~~~~(6)~~ Providing to a third-party purchaser pursuant to an order entered in a
 6 foreclosure action filed in a court of competent jurisdiction, factual
 7 information related to the owner or lessee of coal, oil, gas reserves, or any
 8 other mineral resources assessed under KRS 132.820~~(4)~~. The department
 9 may promulgate an administrative regulation establishing a fee schedule for
 10 the provision of the information described in this ~~paragraph~~~~(subparagraph)~~.
 11 Any fee imposed shall not exceed the greater of the actual cost of providing
 12 the information or ten dollars (\$10);~~(or)~~

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

15 **(h) Statistics of gasoline and special fuels gallonage reported to the department**
 16 **under KRS 138.210 to 138.448;**

17 **(i) Statistics of crude oil reported to the department under the crude oil excise**
 18 **tax requirements of KRS Chapter 137;**

19 **(j) Statistics of natural gas production reported to the department under the**
 20 **natural resources severance tax requirements of KRS Chapter 143A;**

21 **(k) Those portions of mine maps submitted by taxpayers to the department**
 22 **pursuant to KRS Chapter 132 for ad valorem tax purposes that depict the**
 23 **boundaries of mined-out parcel areas. These electronic maps shall not be**
 24 **relied upon to determine actual boundaries of mined-out parcel areas.**
 25 **Property boundaries contained in mine maps required under KRS Chapters**
 26 **350 and 352 shall not be construed to constitute land surveying or boundary**
 27 **surveys defined by KRS 322.010 and any administrative regulations;**

- 1 (l) Providing to other state agencies the report, filed with the department by an
2 employer, listing the policy number and the name and address of the
3 employer's workers' compensation insurance carrier under Section 3 of this
4 Act;
- 5 (m) The name and address of a cigarette stamping agent or distributor and the
6 number of sticks by brand name that have been purchased from a
7 nonparticipating manufacturer and have been stamped with Kentucky
8 stamps by that agent or distributor provided by Section 4 of this Act;
- 9 (n) A list of taxpayers that owe delinquent taxes or fees administered by the
10 department provided by Section 5 of this Act;
- 11 (o) 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;
- 14 (p) Information made available by the department, for official use only and on
15 a confidential basis, to the proper officer, agency, board, or commission of
16 this state, any Kentucky city or county, any other state, or the federal
17 government, under reciprocal agreements whereby the department shall
18 receive similar or useful information in return; or
- 19 (q) Providing information to the Legislative Research Commission under:
- 20 1. KRS 139.519 for purposes of the sales and use tax refund on building
21 materials used for disaster recovery;
- 22 2. KRS 141.436 for purposes of the energy efficiency products credits;
- 23 3. KRS 141.437 for purposes of the ENERGY STAR home and the
24 ENERGY STAR manufactured home credits;
- 25 4. Section 7 of this Act for purposes of the distilled spirits credit; or
- 26 5. Section 1 of this Act for purposes of the noise mitigation credit.
- 27 ~~(3) [(2) — The commissioner shall make available any information for official use only~~

1 ~~and on a confidential basis to the proper officer, agency, board or commission of~~
2 ~~this state, any Kentucky county, any Kentucky city, any other state, or the federal~~
3 ~~government, under reciprocal agreements whereby the department shall receive~~
4 ~~similar or useful information in return.~~

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

7 ~~(4)~~ Access to and inspection of information received from the Internal Revenue Service
8 is for department~~[of Revenue]~~ use only, and is restricted to tax administration
9 purposes.~~[Notwithstanding the provisions of this section to the contrary,]~~
10 Information received from the Internal Revenue Service shall not be made available
11 to any other agency of state government, or any county, city, or other state, and shall
12 not be inspected intentionally and without authorization by any present secretary or
13 employee of the Finance and Administration Cabinet, commissioner or employee of
14 the department~~[of Revenue]~~, or any other person.

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

20 ~~(6) Notwithstanding any provision of law to the contrary, beginning with mine map~~
21 ~~submissions for the 1989 tax year, the department may make public or divulge only~~
22 ~~those portions of mine maps submitted by taxpayers to the department pursuant to~~
23 ~~KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-~~
24 ~~out parcel areas. These electronic maps shall not be relied upon to determine actual~~
25 ~~boundaries of mined out parcel areas. Property boundaries contained in mine maps~~
26 ~~required under KRS Chapters 350 and 352 shall not be construed to constitute land~~
27 ~~surveying or boundary surveys as defined by KRS 322.010 and any administrative~~

1 ~~regulations promulgated thereto.~~

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

6 ➔ Section 3. KRS 131.135 is amended to read as follows:

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

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

13 ➔ Section 4. KRS 131.618 is amended to read as follows:

14 (1) ~~[Notwithstanding KRS 131.190,]~~The commissioner is authorized to disclose to the
15 Attorney General the name and address of a stamping agent or distributor and the
16 number of sticks by brand name that have been purchased from a nonparticipating
17 manufacturer and have been stamped with Kentucky stamps by that agent or
18 distributor. The Attorney General may share this information with federal, other
19 state, or local agencies only for the purposes of enforcement of KRS 131.600 to
20 131.630 or corresponding laws of other states. The Attorney General is further
21 authorized to disclose to a nonparticipating manufacturer or its importers this
22 information that has been provided by a stamping agent regarding the purchases
23 from that nonparticipating manufacturer or its importers. This information provided
24 by a stamping agent may be used in any enforcement action against the
25 nonparticipating manufacturer or its importers by the Attorney General.

26 (2) In addition to the information required to be submitted pursuant to KRS 131.608,
27 131.614, and 131.620, the Attorney General or the commissioner may require a

1 stamping agent, distributor, participating manufacturer, nonparticipating
2 manufacturer, or a nonparticipating manufacturer's importers to submit any
3 additional information including but not limited to samples of the packaging or
4 labeling of each brand family as is necessary to enable the Attorney General to
5 determine whether the participating manufacturer or the nonparticipating
6 manufacturer and its importers are in compliance with KRS 131.600 to 131.630.

7 ➔Section 5. KRS 131.650 is amended to read as follows:

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

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

- 13 (a) The taxes or fees owed remain unpaid at least forty-five (45) days after the
14 dates they became due and payable; and
15 (b) A tax lien or judgment lien has been filed of public record against the taxpayer
16 before notice is given under KRS 131.654.

17 (3) In the case of listed taxpayers that are business entities, the department~~[of~~
18 ~~Revenue]~~ may also list the names of responsible persons assessed pursuant to KRS
19 136.565, 138.885, 139.185, 141.340, and 142.357 for listed liabilities, who are not
20 protected from publication by subsection (2) of this section, and for whom the
21 requirements of KRS 131.652 are satisfied with regard to the personal assessment.

22 (4) Before any list is published under this section, the department shall document that
23 each of the conditions for publication as provided in this section has been satisfied,
24 and that procedures were followed to ensure the accuracy of the list and notice was
25 given to the affected taxpayers.

26 ➔Section 6. KRS 131.990 is amended to read as follows:

27 (1) (a) Any person who violates the intentional unauthorized inspection provisions of

- 1 KRS 131.190(1) shall be fined not more than five hundred dollars (\$500) or
2 imprisoned for not more than six (6) months, or both.
- 3 (b) Any person who violates the provisions of KRS 131.190(1) by divulging
4 confidential taxpayer information shall be fined not more than one thousand
5 dollars (\$1,000) or imprisoned for not more than one (1) year, or both.
- 6 (c) Any person who violates the intentional unauthorized inspection provisions of
7 KRS 131.190(3)~~[(4)]~~ shall be fined not more than one thousand dollars
8 (\$1,000) or imprisoned for not more than one (1) year, or both.
- 9 (d) Any person who violates the provisions of KRS 131.190(3)~~[(4)]~~ by divulging
10 confidential taxpayer information shall be fined not more than five thousand
11 dollars (\$5,000) or imprisoned for not more than five (5) years, or both.
- 12 (e) Any present secretary or employee of the Finance and Administration Cabinet,
13 commissioner or employee of the department, member of a county board of
14 assessment appeals, property valuation administrator or employee, or any
15 other person, who violates the provisions of KRS 131.190(1) or (3)~~[(4)]~~ may,
16 in addition to the penalties imposed under this subsection, be disqualified and
17 removed from office or employment.
- 18 (2) Any person who willfully fails to comply with the rules and regulations
19 promulgated by the department for the administration of delinquent tax collections
20 shall be fined not less than twenty dollars (\$20) nor more than one thousand dollars
21 (\$1,000).
- 22 (3) Any person who fails to do any act required or does any act forbidden by KRS
23 131.210 shall be fined not less than ten dollars (\$10) nor more than five hundred
24 dollars (\$500).
- 25 (4) Any person who fails to comply with the provisions of KRS 131.155 shall, unless it
26 is shown to the satisfaction of the department that the failure is due to reasonable
27 cause, pay a penalty of one-half of one percent (0.5%) of the amount that should

1 have been remitted under the provisions of KRS 131.155 for each failure to comply.

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

9 (b) Any financial institution that fails or refuses to comply with the provisions of
10 KRS 131.672 and 131.674 within one hundred twenty (120) days after the
11 notification by the department shall, unless the failure is due to reasonable
12 cause as defined in KRS 131.010, forfeit its right to do business within the
13 Commonwealth, unless and until the financial institution is in compliance.
14 Upon notification by the department, the commissioner of the Department of
15 Financial Institutions shall, as applicable, revoke the authority of the financial
16 institution or its agents to do business in the Commonwealth.

17 (6) Any taxpayer or tax return preparer who fails or refuses to comply with the
18 provisions of KRS 131.250 or an administrative regulation promulgated under KRS
19 131.250 shall, unless it is shown to the satisfaction of the department that the failure
20 is due to reasonable cause, pay a return processing fee of ten dollars (\$10) for each
21 return not filed as required.

22 ➔Section 7. KRS 141.389 is amended to read as follows:

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

25 1. For taxable years beginning on or after January 1, 2015, and before
26 December 31, 2015, the credit shall be equal to twenty percent (20%) of
27 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a

- 1 timely basis;
- 2 2. For taxable years beginning on or after January 1, 2016, and before
- 3 December 31, 2016, the credit shall be equal to forty percent (40%) of
- 4 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a
- 5 timely basis;
- 6 3. For taxable years beginning on or after January 1, 2017, and before
- 7 December 31, 2017, the credit shall be equal to sixty percent (60%) of
- 8 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a
- 9 timely basis;
- 10 4. For taxable years beginning on or after January 1, 2018, and before
- 11 December 31, 2018, the credit shall be equal to eighty percent (80%) of
- 12 the tax assessed under KRS 132.160 and paid under KRS 132.180 on a
- 13 timely basis; and
- 14 5. For taxable years beginning on or after January 1, 2019, the credit shall
- 15 be equal to one hundred percent (100%) of the tax assessed under KRS
- 16 132.160 and paid under KRS 132.180 on a timely basis.
- 17 (b) The credit shall be applied both to the income tax imposed under KRS
- 18 141.020 or 141.040 and to the limited liability entity tax imposed under KRS
- 19 141.0401, with the ordering of the credits as provided in KRS 141.0205.
- 20 (2) The amount of distilled spirits credit allowed under subsection (1) of this section
- 21 shall be used only for capital improvements at the premises of the distiller licensed
- 22 pursuant to KRS Chapter 243. As used in this subsection, "capital improvement"
- 23 means any costs associated with:
- 24 (a) Construction, replacement, or remodeling of warehouses or facilities;
- 25 (b) Purchases of barrels and pallets used for the storage and aging of distilled
- 26 spirits in maturing warehouses;
- 27 (c) Acquisition, construction, or installation of equipment for the use in the

- 1 manufacture, bottling, or shipment of distilled spirits;
- 2 (d) Addition or replacement of access roads or parking facilities; and
- 3 (e) Construction, replacement, or remodeling of facilities to market or promote
- 4 tourism, including but not limited to a visitor's center.
- 5 (3) The distilled spirits credit allowed under subsection (1) of this section:
- 6 (a) May be accumulated for multiple taxable years;
- 7 (b) Shall be claimed on the return of the taxpayer filed for the taxable year during
- 8 which the credits were used pursuant to subsection (2) of this section; and
- 9 (c) Shall not include:
- 10 1. Any delinquent tax paid to the Commonwealth; or
- 11 2. Any interest, fees, or penalty paid to the Commonwealth.
- 12 (4) (a) Before the distilled spirits credit shall be allowed on any return, the capital
- 13 improvements required by subsection (2) of this section shall be completed
- 14 and specifically associated with the credit allowed on the return.
- 15 (b) The amount of distilled spirits credit allowed shall be recaptured if the capital
- 16 improvement associated with the credit is sold or otherwise disposed of prior
- 17 to the exhaustion of the useful life of the asset for Kentucky depreciation
- 18 purposes.
- 19 (c) If the allowed credit is associated with multiple capital improvements, and not
- 20 all capital improvements are sold or otherwise disposed of, the distilled spirits
- 21 credit shall be prorated based on the cost of the capital improvement sold over
- 22 the total cost of all improvements associated with the credit.
- 23 (5) If the taxpayer is a pass-through entity, the taxpayer may apply the credit against the
- 24 limited liability entity tax imposed by KRS 141.0401, and shall pass the credit
- 25 through to its members, partners, or shareholders in the same proportion as the
- 26 distributive share of income or loss is passed through.
- 27 (6) The department may promulgate an administrative regulation pursuant to KRS

1 Chapter 13A to implement the allowable credit under this section, require the filing
2 of forms designed by the department, and require specific information for the
3 evaluation of the credit taken by any taxpayer.

4 (7) ~~[Notwithstanding KRS 131.190,]~~ No later than September 1, 2016, and annually
5 thereafter, the department shall report to the Interim Joint Committee on
6 Appropriations and Revenue:

- 7 (a) The name of each taxpayer taking the credit permitted by subsection (1) of
8 this section;
- 9 (b) The amount of credit taken by that taxpayer; and
- 10 (c) The type of capital improvement made for which the credit is claimed.

11 ➔Section 8. KRS 131.020 is amended to read as follows:

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

15 (a) Office of the Commissioner, which shall consist of:

16 1. The Division of Protest Resolution, headed by a division director who
17 shall report directly to the commissioner. The division shall administer
18 the protest functions for the department from office resolution through
19 court action; and

20 2. The Division of Taxpayer Ombudsman, headed by a division director
21 who shall report to the commissioner. The division shall perform those
22 duties set out in KRS 131.083;

23 (b) Office of Tax Policy and Regulation, headed by an executive director who
24 shall report directly to the commissioner. The office shall be responsible for:

- 25 1. Providing oral and written technical advice on Kentucky tax law;
- 26 2. Drafting proposed tax legislation and regulations;
- 27 3. Testifying before legislative committees on tax matters;

- 1 4. Analyzing tax publications;
- 2 5. Providing expert witness testimony in tax litigation cases;
- 3 6. Providing consultation and assistance in protested tax cases; and
- 4 7. Conducting training and education programs;
- 5 (c) Office of Processing and Enforcement, headed by an executive director who
- 6 shall report directly to the commissioner. The office shall be responsible for
- 7 processing documents, depositing funds, collecting debt payments, and
- 8 coordinating, planning, and implementing a data integrity strategy. The office
- 9 shall consist of the:
- 10 1. Division of Operations, which shall be responsible for opening all tax
- 11 returns, preparing the returns for data capture, coordinating the data
- 12 capture process, depositing receipts, maintaining tax data, and assisting
- 13 other state agencies with similar operational aspects as negotiated
- 14 between the department and the other agency;
- 15 2. Division of Collections, which shall be responsible for initiating all
- 16 collection enforcement activity related to due and owing tax
- 17 assessments, including protest resolution, and for assisting other state
- 18 agencies with similar collection aspects as negotiated between the
- 19 department and the other state agency; and
- 20 3. Division of Registration and Data Integrity, which shall be responsible
- 21 for registering businesses for tax purposes, ensuring that the data entered
- 22 into the department's tax systems is accurate and complete, and assisting
- 23 the taxing areas in proper procedures to ensure the accuracy of the data
- 24 over time;
- 25 (d) Office of Property Valuation, headed by an executive director who shall report
- 26 directly to the commissioner. The office shall consist of the:
- 27 1. Division of Local Support, which shall be responsible for providing

- 1 supervision, assistance, and training to the property valuation
2 administrators and sheriffs within the Commonwealth;
- 3 2. Division of State Valuation, which shall be responsible for providing
4 assessments of public service companies and motor vehicles, and
5 providing assistance to property valuation administrators and sheriffs
6 with the administration of tangible and omitted property taxes within the
7 Commonwealth; and
- 8 3. Division of Minerals Taxation and Geographical Information System
9 Services, which shall be responsible for providing geographical
10 information system mapping support, ensuring proper filing of severance
11 tax returns, ensuring consistency of unmined coal assessments, and
12 gathering and providing data to properly assess minerals to the property
13 valuation administrators within the Commonwealth;
- 14 (e) Office of Sales and Excise Taxes, headed by an executive director who shall
15 report directly to the commissioner. The office shall administer all matters
16 relating to sales and use taxes and miscellaneous excise taxes, including but
17 not limited to technical tax research, compliance, taxpayer assistance, tax-
18 specific training, and publications. The office shall consist of the:
- 19 1. Division of Sales and Use Tax, which shall administer the sales and use
20 tax; and
- 21 2. Division of Miscellaneous Taxes, which shall administer various other
22 taxes, including but not limited to alcoholic beverage taxes; cigarette
23 enforcement fees, stamps, meters, and taxes; gasoline tax; bank
24 franchise tax; inheritance and estate tax; insurance premiums and
25 insurance surcharge taxes; motor vehicle tire fees and usage taxes; and
26 special fuels taxes;
- 27 (f) Office of Income Taxation, headed by an executive director who shall report

1 directly to the commissioner. The office shall administer all matters related to
2 income and corporation license taxes, including technical tax research,
3 compliance, taxpayer assistance, tax-specific training, and publications. The
4 office shall consist of the:

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

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

11 (g) Office of Field Operations, headed by an executive director who shall report
12 directly to the commissioner. The office shall manage the regional taxpayer
13 service centers and the field audit program.

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

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

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

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

3 ➔Section 9. KRS 141.0205 is amended to read as follows:

4 If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax
5 imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of
6 the credits shall be determined as follows:

7 (1) The nonrefundable business incentive credits against the tax imposed by KRS
8 141.020 shall be taken in the following order:

9 (a) 1. For taxable years beginning after December 31, 2004, and before
10 January 1, 2007, the corporation income tax credit permitted by KRS
11 141.420(3)(a);

12 2. For taxable years beginning after December 31, 2006, the limited
13 liability entity tax credit permitted by KRS 141.0401;

14 (b) The economic development credits computed under KRS 141.347, 141.381,
15 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-
16 2088, and 154.27-080;

17 (c) The qualified farming operation credit permitted by KRS 141.412;

18 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);

19 (e) The health insurance credit permitted by KRS 141.062;

20 (f) The tax paid to other states credit permitted by KRS 141.070;

21 (g) The credit for hiring the unemployed permitted by KRS 141.065;

22 (h) The recycling or composting equipment credit permitted by KRS 141.390;

23 (i) The tax credit for cash contributions in investment funds permitted by KRS
24 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
25 154.20-258;

26 (j) The coal incentive credit permitted under KRS 141.0405;

27 (k) The research facilities credit permitted under KRS 141.395;

- 1 (l) The employer High School Equivalency Diploma program incentive credit
2 permitted under KRS 164.0062;
- 3 (m) The voluntary environmental remediation credit permitted by KRS 141.418;
- 4 (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 5 (o) The environmental stewardship credit permitted by KRS 154.48-025;
- 6 (p) The clean coal incentive credit permitted by KRS 141.428;
- 7 (q) The ethanol credit permitted by KRS 141.4242;
- 8 (r) The cellulosic ethanol credit permitted by KRS 141.4244;
- 9 (s) The energy efficiency credits permitted by KRS 141.436;
- 10 (t) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 11 (u) The Endow Kentucky credit permitted by KRS 141.438;
- 12 (v) The New Markets Development Program credit permitted by KRS 141.434;
- 13 (w) The food donation credit permitted by KRS 141.392;
- 14 (x) The distilled spirits credit permitted by KRS 141.389; and
- 15 (y) The angel investor credit permitted by KRS 141.396.
- 16 (2) After the application of the nonrefundable credits in subsection (1) of this section,
17 the nonrefundable personal tax credits against the tax imposed by KRS 141.020
18 shall be taken in the following order:
- 19 (a) The individual credits permitted by KRS 141.020(3);
- 20 (b) The credit permitted by KRS 141.066;
- 21 (c) The tuition credit permitted by KRS 141.069;
- 22 (d) The household and dependent care credit permitted by KRS 141.067; and
- 23 (e) The new home credit permitted by KRS 141.388.
- 24 (3) After the application of the nonrefundable credits provided for in subsection (2) of
25 this section, the refundable credits against the tax imposed by KRS 141.020 shall be
26 taken in the following order:
- 27 (a) The individual withholding tax credit permitted by KRS 141.350;

- 1 (b) The individual estimated tax payment credit permitted by KRS 141.305;
- 2 (c) For taxable years beginning after December 31, 2004, and before January 1,
3 2007, the corporation income tax credit permitted by KRS 141.420(3)(c);
- 4 (d) The certified rehabilitation credit permitted by KRS 171.3961 and
5 171.397(1)(b); ~~and~~
- 6 (e) The film industry tax credit allowed by KRS 141.383; ***and***
- 7 ***(f) The noise mitigation credit permitted by Section 1 of this Act.***
- 8 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the
9 tax imposed by KRS 141.040.
- 10 (5) The following nonrefundable credits shall be applied against the sum of the tax
11 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)
12 of this section, and the tax imposed by KRS 141.0401 in the following order:
- 13 (a) The economic development credits computed under KRS 141.347, 141.381,
14 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-
15 2088, and 154.27-080;
- 16 (b) The qualified farming operation credit permitted by KRS 141.412;
- 17 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 18 (d) The health insurance credit permitted by KRS 141.062;
- 19 (e) The unemployment credit permitted by KRS 141.065;
- 20 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 21 (g) The coal conversion credit permitted by KRS 141.041;
- 22 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods
23 ending prior to January 1, 2008;
- 24 (i) The tax credit for cash contributions to investment funds permitted by KRS
25 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
26 154.20-258;
- 27 (j) The coal incentive credit permitted under KRS 141.0405;

- 1 (k) The research facilities credit permitted under KRS 141.395;
- 2 (l) The employer High School Equivalency Diploma program incentive credit
3 permitted under KRS 164.0062;
- 4 (m) The voluntary environmental remediation credit permitted by KRS 141.418;
- 5 (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 6 (o) The environmental stewardship credit permitted by KRS 154.48-025;
- 7 (p) The clean coal incentive credit permitted by KRS 141.428;
- 8 (q) The ethanol credit permitted by KRS 141.4242;
- 9 (r) The cellulosic ethanol credit permitted by KRS 141.4244;
- 10 (s) The energy efficiency credits permitted by KRS 141.436;
- 11 (t) The ENERGY STAR home or ENERGY STAR manufactured home credit
12 permitted by KRS 141.437;
- 13 (u) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 14 (v) The railroad expansion credit permitted by KRS 141.386;
- 15 (w) The Endow Kentucky credit permitted by KRS 141.438;
- 16 (x) The New Markets Development Program credit permitted by KRS 141.434;
- 17 (y) The food donation credit permitted by KRS 141.392; and
- 18 (z) The distilled spirits credit permitted by KRS 141.389.
- 19 (6) After the application of the nonrefundable credits in subsection (5) of this section,
20 the refundable credits shall be taken in the following order:
- 21 (a) The corporation estimated tax payment credit permitted by KRS 141.044;
- 22 (b) The certified rehabilitation credit permitted by KRS 171.3961 and
23 171.397(1)(b);~~and~~
- 24 (c) The film industry tax credit allowed in KRS 141.383; ***and***
- 25 ***(d) The noise mitigation credit permitted by Section 1 of this Act.***