

1 AN ACT relating to sales and use taxes.

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

3 ➔Section 1. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO
4 READ AS FOLLOWS:

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

6 *(a) "Affiliate" has the same meaning as in KRS 45A.067, which has been*
7 *approved by the department under subsection (4) of this section;*

8 *(b) "Communications service" has the same meaning as in KRS 136.602;*

9 *(c) "Internet access" has the same meaning as in 47 U.S.C. sec. 151 note;*

10 *(d) "Multichannel video programming service" has the same meaning as in*
11 *KRS 136.602; and*

12 *(e) "Provider" means a business that has been approved by the department*
13 *under subsection (4) of this section, which furnishes communications*
14 *services, Internet access, multichannel video programming services, or any*
15 *combination thereof.*

16 *(2) (a) Notwithstanding KRS 134.580 and 139.770, a provider or an affiliate of a*
17 *provider may apply for a refund of the Kentucky sales and use tax imposed*
18 *by KRS Chapter 139 on tangible personal property purchased or used by a*
19 *provider or an affiliate of a provider to:*

20 *1. Transmit, convey, amplify, or route information such as images, text,*
21 *voice, video programming, other video content, or data; or*

22 *2. Build, assemble, repair, or replace tangible personal property used to*
23 *transmit, convey, amplify, or route information such as images, text,*
24 *voice, video programming, other video content, or data.*

25 *(b) Examples of tangible personal property that may qualify for the refund*
26 *allowed under this subsection are:*

27 *1. Converters;*

- 1 2. Modem and Wi-Fi equipment;
 - 2 3. Headend and hub equipment;
 - 3 4. Monitoring equipment;
 - 4 5. Fiber optic cable and coaxial cable;
 - 5 6. Conduit;
 - 6 7. Distribution plant;
 - 7 8. Customer connection equipment;
 - 8 9. Telecommunications radio;
 - 9 10. Routing and switching equipment;
 - 10 11. Prewritten computer software;
 - 11 12. Equipment enclosures, above and below ground;
 - 12 13. Towers, poles, and mounts;
 - 13 14. Electricity;
 - 14 15. Transmitters;
 - 15 16. Power equipment;
 - 16 17. Diagnostic equipment;
 - 17 18. Storage devices;
 - 18 19. Servers;
 - 19 20. Multiplexers;
 - 20 21. Amplifiers; and
 - 21 22. Antennas.
- 22 (3) (a) The maximum amount of refund awarded to all providers and affiliates of
23 the providers for each calendar year shall be twenty-five million dollars
24 (\$25,000,000).
- 25 (b) If the total amount of refund requests is more than twenty-five million
26 dollars (\$25,000,000) for the calendar year, each applicant shall receive no
27 more than its applicable pro-rata share of twenty-five million dollars

1 (\$25,000,000).

2 (4) Each provider and affiliate of a provider shall file an initial application for pre-
3 approval with the department for participation in the refund pool authorized by
4 this section. The applications for pre-approval shall be reviewed and accepted or
5 denied within thirty (30) days by the department. Only approved applicants may
6 be included in the calculation of refund authorized in subsection (3) of this
7 section. The application shall include:

8 (a) Identifying information, including legal name, federal employer
9 identification number, Kentucky sales and use tax number, contact
10 information, principal business address, principal telephone number, and
11 its location or locations in Kentucky; and

12 (b) 1. If the applicant is a provider with any affiliates, a list of the names
13 and federal employer identification numbers of any of its affiliates
14 which may qualify for this refund, and the nature and description of
15 the affiliation;

16 2. If the applicant is a provider with no affiliates, a statement that it has
17 no affiliates which would qualify for this refund;

18 3. If the applicant is an affiliate of a provider, the provider with which it
19 is affiliated, and the nature and description of its affiliation to the
20 provider;

21 4. If the applicant is an affiliate of a provider, a statement from the
22 provider acknowledging the affiliation; and

23 5. Any other information the department may require.

24 (5) The refund authorized in subsection (3) of this section applies to items purchased
25 or after January 1, 2021, but before January 1, 2024, whether or not the seller is
26 under contract to deliver, assemble, and incorporate into real estate the tangible
27 personal property described in this subsection.

1 (6) The department shall issue the refunds on an annual, calendar-year basis. All
2 refunds shall be issued by June 30 of the following calendar year, beginning
3 June 30, 2022.

4 (7) The department shall promulgate administrative regulations in accordance with
5 KRS Chapter 13A to implement this section.

6 (8) On or before August 1, 2022, and on or before each August 1 thereafter as long
7 as any refund is processed, the department shall report to the Interim Joint
8 Committee on Appropriations and Revenue the total amount of refunds that have
9 been issued for the immediately preceding calendar year and the total cumulative
10 amount of the refunds claimed.

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

12 (1) No present or former commissioner or employee of the department, present or
13 former member of a county board of assessment appeals, present or former property
14 valuation administrator or employee, present or former secretary or employee of the
15 Finance and Administration Cabinet, former secretary or employee of the Revenue
16 Cabinet, or any other person, shall intentionally and without authorization inspect or
17 divulge any information acquired by him of the affairs of any person, or information
18 regarding the tax schedules, returns, or reports required to be filed with the
19 department or other proper officer, or any information produced by a hearing or
20 investigation, insofar as the information may have to do with the affairs of the
21 person's business.

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

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

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

27 (c) Furnishing any taxpayer or his properly authorized agent with information

- 1 respecting his own return;
- 2 (d) Testimony provided by the commissioner or any employee of the department
3 in any court, or the introduction as evidence of returns or reports filed with the
4 department, in an action for violation of state or federal tax laws or in any
5 action challenging state or federal tax laws;
- 6 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or
7 energy resources assessed under KRS 132.820, or owners of surface land
8 under which the unmined minerals lie, factual information about the owner's
9 property derived from third-party returns filed for that owner's property, under
10 the provisions of KRS 132.820, that is used to determine the owner's
11 assessment. This information shall be provided to the owner on a confidential
12 basis, and the owner shall be subject to the penalties provided in KRS
13 131.990(2). The third-party filer shall be given prior notice of any disclosure
14 of information to the owner that was provided by the third-party filer;
- 15 (f) Providing to a third-party purchaser pursuant to an order entered in a
16 foreclosure action filed in a court of competent jurisdiction, factual
17 information related to the owner or lessee of coal, oil, gas reserves, or any
18 other mineral resources assessed under KRS 132.820. The department may
19 promulgate an administrative regulation establishing a fee schedule for the
20 provision of the information described in this paragraph. Any fee imposed
21 shall not exceed the greater of the actual cost of providing the information or
22 ten dollars (\$10);
- 23 (g) Providing information to a licensing agency, the Transportation Cabinet, or
24 the Kentucky Supreme Court under KRS 131.1817;
- 25 (h) Statistics of gasoline and special fuels gallonage reported to the department
26 under KRS 138.210 to 138.448;
- 27 (i) Providing any utility gross receipts license tax return information that is

1 necessary to administer the provisions of KRS 160.613 to 160.617 to
2 applicable school districts on a confidential basis;

3 (j) Providing documents, data, or other information to a third party pursuant to an
4 order issued by a court of competent jurisdiction; or

5 (k) Providing information to the Legislative Research Commission under:

6 1. Section 1 of this Act for purposes of the sales and use tax refunds
7 taken by providers, including affiliates of those providers, of
8 communications services, Internet access, multichannel video
9 programming services, or any combination thereof;

10 ~~2.[1.]~~ KRS 139.519 for purposes of the sales and use tax refund on building
11 materials used for disaster recovery;

12 3. KRS 141.068 for purposes of the Kentucky investment fund;

13 4. KRS 141.389 for purposes of the distilled spirits credit;

14 5. KRS 141.390 for purposes of the recycling and composting credit.

15 6. KRS 141.396 for purposes of the angel investor tax credit;

16 7. KRS 141.408 for purposes of the inventory credit;

17 ~~8.[2.]~~ KRS 141.436 for purposes of the energy efficiency products credits;

18 ~~9.[3.]~~ KRS 141.437 for purposes of the ENERGY STAR home and the
19 ENERGY STAR manufactured home credits;

20 ~~10.[4.]~~ KRS 148.544 for purposes of the film industry incentives; and

21 ~~11.[5.]~~ KRS 154.26-095 for purposes of the Kentucky industrial
22 revitalization 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;

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

27 ~~10.—~~ KRS 141.390 for purposes of the recycling and composting credit].

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