

- 160.590 Special funds - Disposition of.
- 161.025 Kentucky council on teacher education and certification created - Membership - Terms \_ Duties.
- 161.121 Definitions for KRS 161.122.
- 161.122 Career-ladder commission to develop pilot program - Commission report required - Initiation of two-year program.
- 161.162 Discrimination prohibited.
- 161.841 Retirement plan for noninstructional school employees.
- 165.270 City of first class may provide for training teachers.
- 165.280 Board of education in county containing city of fourth class may establish junior college - Tax for support - Election on question of establishment.
- 165.290 What constitutes junior college - Course of instruction.
- 165.300 Tuition and fees - College fund.
- 165.310 Site and buildings - Issuance of bonds.

## PART VII - REVENUE MEASURES

## PART VIIA

Section 617. KRS 139.200 is amended to read as follows:

For the privilege of making "retail sales" or "sales at retail," a tax is hereby imposed upon all retailers at the rate of ~~six [five]~~ percent **(6%) [(5%)]** of the gross receipts of any retailer derived from "retail sales" or "sales at retail" made within this Commonwealth on and after **July 1, 1990** [~~April 1, 1968~~].

Section 618. KRS 139.230 is amended to read as follows:

The department is authorized to prepare suitable brackets of prices for the collection of the taxes imposed by this chapter in order to eliminate fractions of one cent (1), and so that the aggregate collections of taxes by a retailer, so far as may be practicable, shall be equal to ~~six [five]~~ percent **(6%) [(5%)]** of gross receipts or sales price, as the case may be.

Section 619. KRS 139.310 is amended to read as follows:

An excise tax is hereby imposed on the storage, use or other consumption in this state of tangible personal property purchased on and after **July 1, 1990** [~~April 1, 1968~~], for storage, use or other consumption in this state at the rate of ~~six [five]~~ percent **(6%) [(5%)]** of the sales price of the property.

Section 620. KRS 139.320 is amended to read as follows:

(1) The use tax of ~~six [five]~~ percent **(6%) [(5%)]** is hereby levied upon the storage, use or other consumption in this state of any machines, machinery, tools or other equipment brought, imported or caused to be brought into this state for use in constructing, building or repairing any building, highway, street, sidewalk, bridge, culvert, sewer or water system, drainage, or dredging system, electric or steam railway system, reservoir or dam, hydraulic or power plant, transmission line, tower, dock, wharf, excavation, grading or other improvement or structures, or any part thereof. The owner or, if the property is leased the lessee of any such machine, machinery, tools or other equipment shall be liable for the tax provided for in this chapter, to be computed as set out below. The useful life of such machines, tools or other equipment shall be determined by the cabinet in accordance with the depreciable value permitted under KRS Chapter 141 and regulations issued pursuant thereto. Said use tax shall be computed on the basis of such proportion of the original purchase price of such property as the duration of time of use in this state bears to the total useful life. Such tax shall become due immediately upon such property's being brought into this state, and in the absence of satisfactory evidence as to the period of use intended in this state, it shall be presumed that such property will remain in this state for the remainder of its useful life.

(2) The provisions of this section shall not be applicable with respect to sales of such property within this state or to the use, storage or consumption of such property when purchased for use in this state, and in such cases the full sales or use tax shall be paid as in all other cases, irrespective of the period of intended use in this state.

(3) For the purposes of this section, the total useful life of property which is fully depreciated at the time of being brought into this state or becomes fully depreciated while in use in this state shall be extended to include the time of use in this state. In the absence of satisfactory evidence as to the period of use in this state, the tax shall be computed on an annual basis and shall be paid as provided by KRS 139.540.

Section 621. KRS 139.450 is amended to read as follows:

It shall be presumed that tangible personal property shipped or brought to this state by the purchaser after **June 30, 1990** [~~March 31, 1968~~], was purchased from a retailer on or after **July 1, 1990** [~~April 1, 1968~~], for storage, use or other consumption in this state.

Section 622. KRS 139.570 is amended to read as follows:

To reimburse himself for the cost of collecting and remitting the tax, the taxpayer shall deduct on each return **one and three-quarters** [~~two~~] percent (**1.75%**) of the first one thousand dollars (**\$1,000**) of tax due and one [~~and one-quarter~~] (**1.0%**) percent of the tax due in excess of one thousand dollars (**\$1,000**), provided the amount due is not delinquent at the time of payment.

SECTION 623. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

***Excluded from the additional taxes imposed by Part V11A of this Act are gross receipts:***

***(1) Derived from sales of and the storage, use or other consumption of tangible personal property purchased for use in the performance of a lump sum, fixed fee contract executed on or before March 9, 1990;***

***(2) Derived from sales made under fixed price sales contracts executed on or before March 9, 1990, provided the contract specifies a five percent (5%) sales tax rate, and***

***(3) Derived from a lease or rental agreement entered into on or before March 9, 1990.***

Section 624. KRS 139.496 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter, the taxes imposed herein do not apply to the first **one thousand** [~~five hundred~~] dollars (**\$1000**) [~~(\$500)~~] of sales made in any calendar year by individuals or nonprofit organizations not engaged in the business of selling. This exemption is limited to the following types of transactions or activities:

(a) Garage or yard sales of household items by an individual or family which are in no way associated with or related to the operation of a business;

(b) Fund raising event held by nonprofit civic, governmental, or other nonprofit organizations, except as set forth in KRS 139.497.

(2) The exemption does not apply to activities in which all or substantially all the household goods of a person are offered for sale or where nonprofit organizations conduct regular selling activities in competition with private business.

Section 625. The Provisions of Part VIIA of this Act shall be effective July 1, 1990.

#### PART VIIB

Section 626. KRS 138.460 is amended to read as follows:

(1) On and after July 1, **1990** [~~1972~~] a tax levied upon its retail price at the rate of **six** [~~five~~] percent (**6%**) [~~(5%)~~] shall be paid on the use in this state of every motor vehicle, except those exempted by KRS 138.470, at the time and in the manner provided in this section. In the case of trucks of gross weight in excess of ten thousand (10,000) pounds the tax shall be levied upon ninety percent (90%) of the retail price of the vehicle.

(2) The tax shall be collected by the county clerk or other officer with whom the vehicle is required to be registered:

- (a) When he collects the registration fee for registering and licensing a motor vehicle the first time it is offered for registration in this state;
- (b) Or upon the transfer of ownership of any motor vehicle previously registered in this state.
- (3) The tax collected by the county clerk under this section shall be reported and remitted to the Revenue Cabinet on forms provided by the cabinet and on such forms as the cabinet may prescribe. The county clerk shall for his services in collecting the tax be entitled to retain an amount equal to three percent (3%) of the tax collected and accounted for.
- (4) No county clerk or other officer shall register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, or transfer the ownership of any motor vehicle previously registered in this state, unless the owner or his agent pays the tax levied under this section in addition to the transfer, registration and license fees.
- (5) When a resident of this state offers a motor vehicle for registration for the first time in this state which was registered in another state that levied a tax substantially identical to the tax levied under this section, such person shall be entitled to receive a credit against the tax imposed by this section equal to the amount of tax paid to the other state. No credit shall be given under this subsection for taxes paid in another state if that state does not grant similar credit for substantially identical taxes paid in this state.
- (6) No county clerk or other officer shall register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, unless the seller or his agent delivers to the county clerk or other officer a certified or photostat copy of the manufacturer's price label for passenger cars or a certified or photostat copy of the itemized billing to the customer in the case of all other motor vehicles; and the clerk shall attach the certified or photostat copy to the copy of the certificate of registration and ownership mailed to the cabinet.
- (7) Notwithstanding the provisions of KRS 138.450 (4), in no case shall the tax be less than five dollars (\$5) upon first registration of or any transfer of ownership of a motor vehicle in this state, except where such vehicle is exempt from tax under KRS 138.470.
- (8) Where a motor vehicle is sold by a dealer in this state and the purchaser returns the vehicle for any reason to the same dealer within sixty (60) days for a vehicle replacement or a refund of the purchase price, the purchaser shall be entitled to a refund of the amount of usage tax received by the Revenue Cabinet as a result of the registration of the returned vehicle. In the case of a new motor vehicle, the registration of the returned vehicle shall be cancelled and the vehicle shall be considered to have not been previously registered in Kentucky when resold by the dealer.
- (9) When a manufacturer refunds the retail purchase price or replaces a new motor vehicle for the original purchaser within ninety (90) days because of malfunction or defect, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the Revenue Cabinet as a result of the first registration. No person shall be entitled to a refund unless he shall have filed with the Revenue Cabinet a report from the manufacturer identifying the vehicle that was replaced and stating the date of replacement.
- (10) Notwithstanding the time limitations of subsections (8) and (9) of this section, when a dealer or manufacturer refunds the retail purchase price or replaces a motor vehicle for the purchaser as a result of formal arbitration or litigation, or, in the case of a manufacturer, because ordered to do so by a dispute resolution system established under KRS 367.865 or 16 C.F.R. 703, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the Revenue Cabinet as a result of the registration. No person shall be entitled to a refund unless he shall have filed with the Revenue Cabinet a report from the dealer or manufacturer identifying the vehicle that was replaced.

Section 627. KRS 138.463 is amended to read as follows:

- (1) A holder of a permit as required under KRS 281.615 to operate as a U-Drive-It as defined in KRS 281.014 may pay the usage tax as provided in KRS 138.460 or, subject to the provisions of this section, may pay a usage tax of ~~six~~ **six** percent ~~(5%)~~ **(6%)** levied upon the amount of the gross rental or lease charges paid by a customer or lessee renting or leasing a motor vehicle from such holder of the permit.
- (2) The provisions of KRS 138.462 and this section shall apply to all rental and leasehold contracts ~~[in existence on July, 1988, as well as all rental and leasehold contracts]~~ entered into after **March 9, 1990** ~~[July 15, 1988]~~.
- (3) A holder of a permit shall pay the usage tax as provided in KRS 138.460 unless he shows to the

satisfaction of the cabinet that he is regularly engaged in the renting or leasing of motor vehicles to retail as a part of an established business. Persons first engaging in the renting or leasing of motor customers vehicles to retail customers shall, in addition to obtaining a permit required under KRS 281.615, demonstrate to the satisfaction of the cabinet that they are prepared to qualify under the standards set forth in this subsection.

(4) In the event the holder of such permit qualifies under subsection (2) of this section and elects to pay the usage tax by the alternate method as provided in subsection (1) of this section, or is required by subsection (7) of this section to pay by the alternate method, he shall pay the seat tax imposed by KRS 186.281(3) and in addition shall pay the monthly tax authorized by subsection (1) of this section. The cabinet shall provide the holder with evidence that he has been qualified to pay the monthly tax. The holder shall present such evidence to the county clerk at the time motor vehicle is offered for registration in Kentucky and the following provisions shall be applicable.

(5) The tax authorized by subsection (1) of this section shall be the direct obligation of the holder of the permit but it may be charged to and collected from the customer in addition to the rental or lease charges. The tax due shall be remitted to the cabinet each month on forms and pursuant to regulations promulgated by the cabinet.

(6) (a) As soon as practicable after each return is received, the cabinet shall examine and audit it. If the amount of tax computed by the cabinet is greater than the amount returned by the taxpayer, the excess shall be assessed by the cabinet within four (4) years from the date the return was filed, except as provided in paragraph (c) of this subsection, and except that in the case of a failure to file a return or of a fraudulent return the excess may be assessed at any time. A notice of such assessment shall be mailed to the taxpayer. The time herein provided may be extended by agreement between the taxpayer and the cabinet.

(b) For the purpose of paragraphs (a) and (c) of this subsection, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

(c) Notwithstanding the four (4) year time limitation of paragraph (a) of this subsection, in the case of a return where the tax computed by the cabinet is greater by twenty-five percent (25%) or more than the amount returned by the taxpayer, the excess shall be assessed by the cabinet within six (6) years from the date the return was filed.

(7) Failure of the holder of the permit to remit the taxes applicable to the rental charges as provided herein shall be sufficient cause for the Department of Vehicle Regulation to void the permit issued to such holder and the usage tax on each of the motor vehicles which had been registered by the holder under the permit shall be due and payable on the retail price of each such motor vehicle when it was first purchased by the holder.

(8) Notwithstanding the provisions of KRS 138.460 and subsection (1) of this section, a holder of a permit operating a fleet of rental passenger cars which has been registered pursuant to an allocation formula approved by the cabinet shall pay the tax by the method provided in this section. The provisions of this section shall apply to all vehicles rented by the holder in this state.

(9) Every rental of a vehicle registered pursuant to this section shall represent a bona fide arm's-length transaction and the consideration for such rental shall be based on the fair rental value of the vehicle. The burden of proving that the consideration charged by the holder satisfies this subsection is on the holder.

Section 628. The provisions of Part VIIB of this Act shall be effective July 1, 1990.

#### PART VIIC

Section 629. KRS 141.040 is amended to read as follows:

(1) Every corporation organized under the laws of this state, every corporation having its commercial domicile as defined in KRS 141.120(1)(b) in this state, and every foreign corporation owning or leasing property located in this state or having one (1) or more individuals receiving compensation as defined in KRS 141.120(8)(b) in this state, except those corporations listed in paragraphs (a) to (i) of this subsection, shall pay for each taxable year a tax to be computed by the taxpayer on taxable net income at the rates specified in subsections (2), (3) and (4) of this section:

(a) S corporations;

(b) State and national banks and trust companies;

- (c) Savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only;
  - (d) Banks for cooperatives;
  - (e) Production credit associations;
  - (f) Insurance companies, including farmers or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers and reciprocal underwriters;
  - (g) Corporations exempt under section 501 of the Internal Revenue Code;
  - (h) Religious, educational, charitable or like corporations not organized or conducted for pecuniary profit; and
  - (i) Corporations having no individuals receiving compensation as defined in KRS 141.120(8)(b) in this state, and whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, if such property consists of the final printed product, property which becomes a part of the final printed product, or copy from which the printed product is produced.
- (2) ~~For tax years ending before August 1, 1985, the following rates shall apply:~~
- ~~(a) Three percent (3%) of the first twenty-five thousand dollars (\$25,000) of taxable income;~~
  - ~~(b) Four percent (4%) of the amount of taxable net income in excess of twenty-five thousand dollars (\$25,000) but not in excess of fifty thousand dollars (\$50,000);~~
  - ~~(c) Five percent (5%) of the amount of taxable net income in excess of fifty thousand dollars (\$50,000), but not in excess of one hundred thousand dollars (\$100,000); and~~
  - ~~(d) Six percent (6%) of the amount of taxable net income in excess of one hundred thousand dollars (\$100,000).~~
- ~~(3)~~ For tax years **ending before January 1, 1990** ~~[beginning after July 31, 1985]~~, the following rates shall apply:
- (a) Three percent (3%) of the first twenty-five thousand dollars (\$25,000) of taxable net income;
  - (b) Four percent (4%) of the amount of taxable net income in excess of twenty-five thousand dollars (\$25,000), but not in excess of fifty-thousand dollars (\$50,000);
  - (c) Five percent (5%) of the amount of taxable net income in excess of fifty-thousand dollars (\$50,000), but not in excess of one hundred thousand dollars (\$100,000);
  - (d) Six percent (6%) of the amount of taxable net income in excess of one hundred thousand dollars (\$100,000), but not in excess of two hundred fifty-thousand dollars (\$250,000); and
  - (e) Seven and twenty-five one hundredths percent (7.25%) of the amount of taxable net income in excess of two hundred fifty thousand dollars (\$250,000).
- (3) For tax years beginning after December 31, 1989, the following rates shall apply:**
- (a) Four percent (4%) of the first twenty-five thousand dollars (\$25,000) of taxable net income;**
  - (b) Five percent (5%) of the amount of taxable net income in excess of twenty-five thousand dollars (\$25,000) but not in excess of fifty thousand dollars (\$50,000);**
  - (c) Six percent (6%) of the amount of taxable net income in excess of fifty thousand dollars (\$50,000), but not in excess of one hundred thousand dollars (\$100,000);**
  - (d) Seven percent (7%) of the amount of taxable net income in excess of one hundred thousand dollars (\$100,000), but not in excess of two hundred fifty thousand dollars (\$250,000); and**
  - (e) Eight and twenty-five one hundredths percent (8.25%) of the amount of taxable net income in excess of two hundred fifty thousand dollars (\$250,000).**

(4) For tax years beginning before **January** ~~[August]~~ 1, **1990** ~~[1985]~~, and ending after **December** ~~[July]~~ 31, **1989** ~~[1985]~~, the tax shall be the sum of the amounts determined in paragraphs (a) and (b) as follows:

(a) Apply the tax rates in subsection (2) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from the first day of the taxable year through **December** ~~[July]~~ 31, **1989** ~~[1985]~~, and the denominator of which is the total number of days of the taxable year; and

(b) Apply the tax rates in subsection (3) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from **January** ~~[August]~~ 1, **1990** ~~[1985]~~, through the last day of the taxable year and the denominator of which is the total number of days of the taxable year.

(5) Every S corporation shall pay the tax imposed under subsection (1) of this section whenever the net capital gain of such corporation exceeds twenty-five thousand dollars (\$25,000), and exceeds fifty percent (50%) of its taxable income for the taxable year and its taxable income for such year exceeds twenty-five thousand dollars (\$25,000). The tax imposed by this subsection shall be the lower of:

(a) The tax determined by applying the rates in this section to the capital gains, in excess of twenty-five thousand dollars (\$25,000), determined under the Internal Revenue Code; or

(b) The tax determined by applying the rates in this section to the taxable income, in excess of twenty-five thousand dollars (\$25,000);

In no event shall the tax levied by this subsection apply if section 1374 of the Internal Revenue Code would exempt such capital gains from federal income tax.

#### PART VIID

Section 630. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of revenue;

(2) "Cabinet" means the Revenue Cabinet;

(3) ~~[For tax years beginning on or after January 1, 1982, except as otherwise provided in this section,]~~ "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, **1989** ~~[1985]~~, exclusive of any amendments made subsequent to that date and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in section 61 of the Internal Revenue Code. ~~[and as modified by KRS 141.0101 and adjusted as follows:]~~

**(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:**

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

## ACTS OF THE GENERAL ASSEMBLY

1460

- (b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;
- (c) Include interest income derived from obligations of sister states and political subdivisions thereof;
- (d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee; ~~and~~
- (e) Exclude Social Security and tier I railroad retirement benefits subject to federal income tax; **and**
- (f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years; and**
- (g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990.**

~~[(10) "Adjusted gross income" if the case of taxpayers other than corporations means gross income as defined if subsection (9) of this section minus the deductions allowed individuals by section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:~~

- ~~(a) Include all overpayments of federal income tax refunded or credited to the taxpayer during the taxable year; and~~
- ~~(b) Deduct federal income tax;]~~

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 ~~and by section 214 of the Internal Revenue Code as it existed on December 31, 1975~~ except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

- (a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;
- (b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h); and
- (c) The deduction for personal exemptions allowed under section 151 of the Internal Revenue Code and any other deductions in lieu thereof;

(12) "Gross income," in the case of corporations, means "gross income" as defined in section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

- (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;
- (b) Exclude all dividend income received after December 31, 1969;
- (c) Include interest income derived from obligations of sister states and political subdivisions thereof;
- (d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;
- (e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

- (f) Include the amount calculated under KRS 141.205;
  - (g) Ignore the provisions of section 281 of the Internal Revenue Code in computing gross income; and
  - (h) Exclude income from "safe harbor leases" (section 168(f)(8) of the Internal Revenue Code);
- (13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:
- (a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;
  - (b) The deductions contained in sections 243, 244, 245, and 247 of the Internal Revenue Code;
  - (c) The provisions of section 281 of the Internal Revenue Code shall be ignored in computing net income;
  - (d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once; and
  - (e) Exclude expenses related to "safe harbor leases" (section 168(f)(8) of the Internal Revenue Code);
- (14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;
- (b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;
- (c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction; and
- (d) "Taxable net income" in the case of homeowners' associations as defined in section 528(c) of the Internal Revenue Code, means "taxable income" as defined in section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year.
- (15) "Person" means "person" as defined in section 7701(a)(1) of the Internal Revenue Code;
- (16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;
- (17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;
- (18) "Nonresident" means any individual not a resident of this state;
- (19) "Employer" means "employer" as defined in section 3401(d) of the Internal Revenue Code;
- (20) "Employee" means "employee" as defined in section 3401(c) of the Internal Revenue Code;
- (21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;
- (22) "Wages" means "wages" as defined in section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in section 3401(f) and section 3402(k), (o), (p), and (q) of the Internal Revenue Code;

## ACTS OF THE GENERAL ASSEMBLY

1462

- (23) "Payroll period" means "payroll period" as defined in section 3401(b) of the Internal Revenue Code;
- (24) "Corporations" means "corporations" as defined in section 7701(a)(3) of the Internal Revenue Code;
- (25) "S corporations" means "S corporations" as defined in section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.

Section 631. KRS 141.0101 is amended to read as follows:

- (1) ***For property placed in service prior to January 1, 1990, in lieu of the depreciation and expense deductions allowed under Internal Revenue Code Sections 168 and 179, a deduction for a reasonable allowance for depreciation, exhaustion, wear and tear, and obsolescence of property used in a trade or business shall be allowed and computed as set out in subsections (2) through (10) of this section. For property placed in service after December 31, 1989, the depreciation and expense deductions allowed under Sections 168 and 179 of the Internal Revenue Code in effect on December 31, 1989 shall be allowed.***
- (2) Effective August 1, 1985, "reasonable allowance" as used in subsection (1) of this section shall mean depreciation computed in accordance with Section 167 of the Internal Revenue Code and related regulations in effect on December 31, 1980, for all property placed in service on or after January 1, 1981, except as provided in subsections (5) through (7) of this section.
- (3) Depreciation of property placed in service prior to January 1, 1981, shall be computed under Section 167 of the Internal Revenue Code, and the method elected thereunder at the time the property was first placed in service or as changed with the approval of the Commissioner of Internal Revenue Service or as required by changes in federal regulations.
- (4) Taxpayers other than corporations shall be allowed to deduct as depreciation on recovery property placed in service before August 1, 1985, an amount calculated under Section 168 of the Internal Revenue Code subject to the provisions of subsections (5) and (7) of this section. Corporations with a taxable year beginning on or after July 1, 1984, and before August 1, 1985, shall calculate a deduction for depreciation on recovery property placed in service prior to August 1, 1985, using either of the following alternative methods:
- (a) Dividing the total of the deductions allowed under Internal Revenue Code Section 168 by one and four tenths (1.4); and
- (b) Calculating the deduction that would be allowed or allowable under the provisions of Section 167 of the Internal Revenue Code.
- (5) Recovery property placed in service on or after January 1, 1981, and before August 1, 1985, and subject to transition under subsection (7) of this section, shall be subject to depreciation under Section 167 of the Internal Revenue Code, restricted to the straight line method therein provided over the remaining useful life of such assets.
- (6) Depreciation of property placed in service on or after August 1, 1985, shall be computed under Section 167 of the Internal Revenue Code.
- (7) Transition from Section 168 of the Internal Revenue Code, Accelerated Cost Recovery System (ACRS) depreciation, to the depreciation allowed or allowable under this section shall be reported in the first taxable year beginning on or after August 1, 1985. To implement the transition, the following adjustments shall be made:
- (a) Taxpayers other than corporations shall use the adjusted Kentucky basis for property placed in service on or after January 1, 1981. "Adjusted Kentucky basis" means the basis used for determining depreciation under Section 168 of the Internal Revenue Code less the allowed or allowable depreciation and adjustment for election to expense an asset (Section 179 of the Internal Revenue Code);
- (b) Corporations shall adjust the federal unadjusted basis by increasing such basis by the ACRS depreciation not allowed as a deduction in determining Kentucky net income for tax years beginning after June 30, 1984, less allowed or allowable ACRS depreciation for federal income tax purposes. Corporations will not be permitted to adjust the basis by the ACRS depreciation not allowed for Kentucky income tax purposes in tax years beginning on or before June 30, 1984.
- (8) A taxpayer may elect to treat the cost of property placed in service on or before July 31, 1985, as an expense as provided in Section 179 of the Internal Revenue Code in effect on December 31, 1981, except

that the aggregate cost which may be expensed for corporations shall not exceed five thousand dollars (\$5,000). A taxpayer may elect to treat the cost of property placed in service on or after August 1, 1985, as an expense provided in Section 179 of the Internal Revenue Code in effect on December 31, 1980. Computations, as limitations, definitions, exceptions and other provisions of Section 179 of the Internal Revenue Code and related regulations shall be construed to govern the computation of the allowable deduction.

(9) Upon the sale, exchange or disposition of any depreciable property placed in service on or after January 1, 1981, capital gains or losses and the amount of ordinary income determined under the provisions of the Internal Revenue Code shall be computed for Kentucky income tax purposes as follows:

(a) Compute the Kentucky unadjusted basis which is the cost of the asset reduced by any basis adjustment made by the taxpayer under Section 48(q)(1) of the Internal Revenue Code and any expense allowed and utilized under Section 179 of the Internal Revenue Code (First Year Expense) in determining Kentucky net income in prior years, and

(b) Compute the adjusted basis by subtracting the depreciation allowed or allowable for Kentucky income tax purposes from the unadjusted basis, except corporations will not be permitted to adjust the basis of assets by the ACRS depreciation not allowed for Kentucky income tax purposes in the tax years beginning on or before June 30, 1984, and

(c) Compute the gain or loss by subtracting the adjusted basis from the value received from the disposition of the depreciable property, and

(d) Compute the recapture of depreciation required under Sections 1245 through 1256 of the Internal Revenue Code and related regulations, and

(e) Unless otherwise provided in this subsection the provisions of the Internal Revenue Code and related regulations governing the determination of capital gains or losses shall apply for Kentucky income tax purposes.

(10) Unless otherwise provided by this chapter, the basis of property *placed in service prior to January 1, 1990* for purposes of Kentucky income tax shall be the basis, adjusted or unadjusted, required to be used under Section 167 of the Internal Revenue Code in effect on December 31, 1980.

Section 632. KRS 141.020 is amended to read as follows:

(1) An annual tax shall be paid for each taxable year by every resident individual of this state upon his entire net income as defined in this chapter. The tax shall be determined by applying the rates in subsection (2) to net income and subtracting allowable tax credits provided in subsection (3).

(2) The following rates shall be applied to net income:

(a) Two percent (2%) of the amount of net income not exceeding three thousand dollars (\$3,000);

(b) Three percent (3%) of the amount of net income in excess of three thousand dollars (\$3,000) but not in excess of four thousand dollars (\$4,000);

(c) Four percent (4%) of the amount of net income in excess of four thousand dollars (\$4,000) but not in excess of five thousand dollars (\$5,000);

(d) Five percent (5%) of the amount of net income in excess of five thousand dollars (\$5,000) but not in excess of eight thousand dollars (\$8,000);

(e) Six percent (6%) of the amount of net income in excess of eight thousand dollars (\$8,000).

(3) The following tax credits, when applicable, shall be deducted from the result obtained under subsection (2) to arrive at the annual tax:

(a) Twenty dollars (\$20) for an unmarried individual;

(b) Twenty dollars (\$20) for a married individual filing a separate return and an additional twenty dollars (\$20) for the spouse of taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, had no Kentucky gross income and is not the dependent of another taxpayer; or forty dollars (\$40) for married persons filing a joint return, provided neither spouse is the dependent of another taxpayer. The determination of marital status for the purpose of this section shall be made in the manner prescribed in section 153 of the Internal Revenue Code;

- (c) Twenty dollars (\$20) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his spouse;
- (d) An additional forty dollars (\$40) credit if the taxpayer has attained the age of sixty-five (65) before the close of the taxable year;
- (e) An additional forty dollars (\$40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse has attained the age of sixty-five (65) before the close of the taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;
- (f) An additional forty dollars (\$40) credit if the taxpayer is blind at the close of the taxable year;
- (g) An additional forty dollars (\$40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse is blind, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;
- (h) In the case of nonresidents, the tax credits allowable under this subsection shall be that proportion of those permitted therein that is represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.010(10), without the adjustments contained in **(f)** ~~[(a)]~~ and **(g)** ~~[(b)]~~ of that subsection, to his adjusted gross income as defined in section 62 of the Internal Revenue Code. However, in the case of a married nonresident taxpayer with income from Kentucky sources, whose spouse has no income from Kentucky sources, the taxpayer shall determine allowable tax credit(s) by either:
1. The method contained above applied to his tax credit(s), excluding credits for a spouse and dependents, or
  2. Prorating his tax credit(s) plus the tax credits for his spouse and dependents by the ratio of his Kentucky adjusted gross income as determined by KRS 141.010(10), without the adjustments contained in **(f)** ~~[(a)]~~ and **(g)** ~~[(b)]~~ of that subsection, to the total joint federal adjusted gross income of the taxpayer and his spouse;
- i) In the case of an individual who becomes a resident of Kentucky during the taxable year, the tax credits allowable under this subsection shall be that portion of those permitted therein that is represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by subsection (10) of KRS 141.010; without the adjustments contained in paragraphs **(f)** ~~[(a)]~~ and **(g)** ~~[(b)]~~ of that subsection, to his adjusted gross income as defined in section 62 of the Internal Revenue Code;
- (j) In the case of a fiduciary, other than an estate, the allowable tax credit shall be two dollars (\$2);
- (k) In the case of an estate, the allowable tax credit shall be twenty dollars (\$20);
- (l) An additional twenty dollars (\$20) credit if the taxpayer is a member of the Kentucky national guard at the close of the taxable year.
- (4) An annual tax shall be paid for each taxable year as specified in this section upon the entire net income except as herein provided, from all tangible property located in this state, from all intangible property that has acquired a business situs in this state, and from business, trade, profession, occupation or other activities carried on in this state, by natural persons not residents of this state. A nonresident individual shall be taxable only upon the amount of income received by him from labor performed, business done or from other activities in this state, from tangible property located in this state, and from intangible property which has acquired a business situs in this state; provided, however, that the situs of intangible personal property shall be at the residence of the real or beneficial owner and not at the residence of a trustee having custody or possession thereof. The remainder of the income received by such nonresident shall be deemed nontaxable by this state.
- (5) Subject to the provisions of KRS 141.081, any individual may elect to pay the annual tax imposed by KRS 141.023 in lieu of the tax levied under this section.
- (6) An individual who becomes a resident of Kentucky during the taxable year is subject to taxation as prescribed in subsection (4) of this section prior to establishing such residence and as prescribed in subsection (1) of this section following the establishment of such residence.
- (7) An individual who becomes a nonresident of Kentucky during the taxable year is subject to taxation as prescribed in subsection (1) of this section, during that portion of the taxable year that he is a resident and, as prescribed in subsection (4) of this section, during that portion of the taxable year when he is a nonresident.

Section 633. KRS 141.023 is amended to read as follows:

***To facilitate tax computation and tax return preparation, the Revenue Cabinet may develop optional tax tables and specify the classes of taxpayers eligible to utilize the tables in the preparation of their returns. [Any individual whose adjusted gross income for the taxable year for which the return is filed does not exceed eight thousand dollars (\$8,000) may elect to compute his annual tax under this section. This annual tax shall be determined by deducting the tax credits authorized by KRS 141.020(3) from the amount indicated by the following table which gives effect to a standard deduction of six hundred and fifty dollars (\$650).]***

## OPTION TABLE

If Adjusted Gross Income Is Over	But Not Over	Amount Shall be
\$650	\$700	\$.50
700	750	1.50
750	800	2.50
800	850	3.50
850	900	4.50
900	950	5.50
950	1,000	6.50
1,000	1,050	7.50
1,050	1,100	8.50
1,100	1,150	9.50
1,150	1,200	10.50
1,200	1,250	11.50
1,250	1,300	12.50
1,300	1,350	13.50
1,350	1,400	14.50
1,400	1,450	15.50
1,450	1,500	16.50
1,500	1,550	17.50
1,550	1,600	18.50
1,600	1,650	19.50
1,650	1,700	20.50
1,700	1,750	21.50
1,750	1,800	22.50
1,800	1,850	23.50
1,850	1,900	24.50

## ACTS OF THE GENERAL ASSEMBLY

1466

1,900	1,950	25.50
1,950	2,000	26.50
2,000	2,050	27.50
2,050	2,100	28.50
2,100	2,150	29.50
2,150	2,200	30.50
2,200	2,250	31.50
2,250	2,300	32.50
2,300	2,350	33.50
2,350	2,400	34.50
2,400	2,450	35.50
2,450	2,500	36.50
2,500	2,550	37.50
2,550	2,600	38.50
2,600	2,650	39.50
2,650	2,700	40.50
2,700	2,750	41.50
2,750	2,800	42.50
2,800	2,850	43.50
2,850	2,900	44.50
2,900	2,950	45.50
2,950	3,000	46.50
3,000	3,050	47.50
3,050	3,100	48.50
3,100	3,150	49.50
3,150	3,200	50.50
3,200	3,250	51.50
3,250	3,300	52.50
3,300	3,350	53.50
3,350	3,400	54.50
3,400	3,450	55.50
3,450	3,500	56.50
3,500	3,550	57.50

	CHAPTER 476		1467
3,550	3,600	58.50	
3,600	3,650	59.50	
3,650	3,700	60.75	
3,700	3,750	62.25	
3,750	3,800	63.75	
3,800	3,850	65.25	
3,850	3,900	66.75	
3,900	3,950	68.25	
3,950	4,000	69.75	
4,000	4,050	71.25	
4,050	4,100	72.75	
4,100	4,150	74.25	
4,150	4,200	75.75	
4,200	4,250	77.25	
4,250	4,300	78.75	
4,300	4,350	80.25	
4,350	4,400	81.75	
4,400	4,450	83.25	
4,450	4,500	84.75	
4,500	4,550	86.25	
4,550	4,600	87.75	
4,600	4,650	89.25	
4,650	4,700	91.00	
4,700	4,750	93.00	
4,750	4,800	95.00	
4,800	4,850	97.00	
4,850	4,900	99.00	
4,900	4,950	101.00	
4,950	5,000	103.00	
5,000	5,050	105.00	
5,050	5,100	107.00	
5,100	5,150	109.00	
5,150	5,200	111.00	

ACTS OF THE GENERAL ASSEMBLY			1468
5,200	5,250	113.00	
5,250	5,300	115.00	
5,300	5,350	117.00	
5,350	5,400	119.00	
5,400	5,450	121.00	
5,450	5,500	123.00	
5,500	5,550	125.00	
5,550	5,600	127.00	
5,600	5,650	129.00	
5,650	5,700	131.25	
5,700	5,750	133.75	
5,750	5,800	136.25	
5,800	5,850	138.75	
5,850	5,900	141.25	
5,900	5,950	143.75	
5,950	6,000	146.25	
6,000	6,050	148.75	
6,050	6,100	151.25	
6,100	6,150	153.75	
6,150	6,200	156.25	
6,200	6,250	158.75	
6,250	6,300	161.25	
6,300	6,350	163.75	
6,350	6,400	166.25	
6,400	6,450	168.75	
6,450	6,500	171.25	
6,500	6,550	173.75	
6,550	6,600	176.25	
6,600	6,650	178.75	
6,650	6,700	181.25	
6,700	6,750	183.75	
6,750	6,800	186.25	
6,800	6,850	188.75	

	CHAPTER 476	1469
6,850	6,900	191.25
6,900	6,950	193.75
6,950	7,000	196.25
7,000	7,050	198.75
7,050	7,100	201.25
7,100	7,150	203.75
7,150	7,200	206.25
7,200	7,250	208.75
7,250	7,300	211.25
7,300	7,350	213.75
7,350	7,400	216.25
7,400	7,450	218.75
7,450	7,500	221.25
7,500	7,550	223.75
7,550	7,600	226.25
7,600	7,650	228.75
7,650	7,700	231.25
7,700	7,750	233.75
7,750	7,800	236.25
7,800	7,850	238.75
7,850	7,900	241.25
7,900	7,950	243.75
7,950	8,000	246.25

Section 634. KRS 141.180 is amended to read as follows:

(1) Every individual, except as otherwise provided in this section, having for the taxable year an adjusted gross income which exceeds **five thousand** ~~sixteen hundred and fifty~~ dollars **(\$5,000)** ~~[((\$1,650)]~~, if single, or if married and not living with husband or wife and every married individual living with husband or wife whose adjusted gross income combined with the adjusted gross income of his or her spouse exceeds **five thousand** ~~twenty-six hundred and fifty~~ dollars **(\$5,000)** ~~[((\$2,650)]~~ shall make to the cabinet a return stating specifically the items which he claims as deductions and tax credits allowed by this chapter.

(2) Any individual who is blind or who has attained the age of sixty-five (65) before the close of his taxable year shall be required to make a return only if he has for the taxable year an adjusted gross income which exceeds **five thousand** ~~thirty-six hundred and fifty~~ dollars **(\$5,000)** ~~[((\$2,650)]~~. Every married individual living with husband or wife shall, if both spouses have attained the age of sixty-five (65), be required to make a return if the combined adjusted gross income of both spouses exceeds five thousand four hundred dollars (\$5,400). If the individual is unable to make his own return, the return shall be made by a duly authorized agent.

(3) Any individual, who is both sixty-five (65) or over and blind before the close of the taxable year, shall make a return if he has for the taxable year an adjusted gross income which exceeds **five** ~~four~~ thousand ~~nine hundred~~ dollars **(\$5,000)** ~~[((\$4,900)]~~.

## ACTS OF THE GENERAL ASSEMBLY

1470

- (4) Notwithstanding any other provision of this section, an individual, having for the taxable year gross income from self-employment of **five thousand** ~~sixteen hundred and fifty~~ dollars **(\$5,000)** ~~[((\$1,650)]~~ or more, shall make a return.
- (5) Any nonresident individual with gross income from Kentucky sources and a total gross income of **five thousand** ~~sixteen hundred and fifty~~ dollars **(\$5,000)** ~~[((\$1,650)]~~ or over shall make a return.
- (6) A husband and wife not living together shall make separate returns. A husband and wife living together may make a joint return, or may make separate returns. However, in the event separate returns are made, neither spouse shall report income nor claim deductions properly attributable to the other.
- (7) ~~[An optional return properly filed under the provisions of KRS 141.023 shall be deemed sufficient to satisfy the provisions of this section.]~~
- (8)] Each individual return shall be verified by a written declaration that it is made under the penalties of perjury.

Section 635. KRS 141.190 is amended to read as follows:

- (1) Every fiduciary, except a receiver appointed by authority of law in possession of part only of the property of an individual, shall make under oath a return for any of the following individuals, estates, or trusts for which he acts, setting forth therein such information as may be prescribed by the cabinet:
- (a) Every individual having an adjusted gross income for the taxable year which exceeds **five thousand** ~~sixteen hundred and fifty~~ dollars **(\$5,000)** ~~[((\$1,650)]~~;
- (b) Every estate the gross income of which for the taxable year is twelve hundred dollars (\$1,200) or over;
- (c) Every trust the gross income of which for the taxable year is one hundred dollars (\$100) or over.
- (2) Any fiduciary required to make a return under this chapter shall be subject to all the provisions of this chapter that apply to individuals.

Section 636. KRS 141.300 is amended to read as follows:

- (1) Every individual shall, at the time prescribed in subsection (3), make a declaration of his estimated tax for the taxable year if his gross income from sources other than wages upon which Kentucky income tax will be withheld can reasonably be expected to exceed **five** ~~two~~ thousand dollars **(\$5,000)** ~~[((\$2,000)]~~ for the taxable year and his gross income or adjusted gross income can reasonably be expected to be an amount not less than the amount for which a return is required under KRS 141.180.
- (2) In the declaration required under subsection (1) the individual shall state:
- (a) The amount which he estimates as the amount of tax under KRS 141.020 for the taxable year;
- (b) The amount which he estimates as the credits for the taxable year under KRS 141.310, ~~and~~ 141.315 **and Section 638 of this Act**;
- (c) The excess of the amount estimated under paragraph (a) over the amount estimated under paragraph (b), which excess for purposes of this chapter shall be considered the estimated tax for the taxable year;
- (d) Such other information as may be prescribed in regulations promulgated by the cabinet;
- (e) Notwithstanding the above provisions, no declaration is required if the estimated tax can reasonably be expected to be less than forty dollars (\$40.00).
- (3) The declaration required under subsection (1) shall be filed with the cabinet on or before April 15 of the taxable year, except that if the requirements of subsection (1) are first met:
- (a) After April 1 and before June 2 of the taxable year, the declaration shall be filed on or before June 15 of the taxable year; or
- (b) After June 1 and before September 2 of the taxable year, the declaration shall be filed on or before September 15 of the taxable year; or

- (c) After September 1 of the taxable year, the declaration shall be filed on or before January 15 of the succeeding taxable year.
- (4) An individual may make amendments of a declaration filed during the taxable year under subsection (3), under regulations prescribed by the cabinet.
- (5) If on or before January 31 of the succeeding taxable year the taxpayer files a return for the taxable year for which the declaration is required and pays in full the amount computed on the return as payable then, under regulations prescribed by the cabinet:
- (a) If the declaration is not required to be filed during the taxable year, but is required to be filed on or before such January 15, such return shall, for the purposes of this section, be considered as such declaration; and
- (b) If the tax shown on the return, reduced by the credits under KRS 141.350, is greater than the estimated tax shown in a declaration previously made or, in the last amendment thereof, such return shall, for the purposes of this section, be considered as the amendment of the declaration permitted by subsection (4) to be filed on or before such January 15.
- (6) The cabinet shall promulgate regulations governing reasonable extensions of time for filing declarations and paying the estimated tax. Except in the case of taxpayers who are abroad, no such extension shall be for more than six (6) months.
- (7) If the taxpayer is unable to make his own declaration, the declaration shall be made by a duly authorized agent or by the guardian, conservator or other person charged with the care of the person or property of such taxpayer.
- (8) For the purposes of KRS 131.190, a declaration of estimated tax shall be held and considered a return of income under this chapter.

SECTION 637. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

***A resident individual may deduct from the tax computed under the provisions of KRS 141.020 a credit for household and dependent care services necessary for gainful employment. The credit shall be twenty percent (20%) of the federal credit allowed under Section 21 of the Internal Revenue Code.***

SECTION 638. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

- (1) ***Individuals whose adjusted gross income does not exceed the amounts set out in subsection (3) of this section, shall be eligible for a nonrefundable "low income" tax credit. The credit shall be deducted from the amount of the tax liability calculated under KRS 141.020 after deducting any credits claimed by the taxpayer under the provisions of KRS 141.065, 141.070, and 155.440.***
- (2) ***For a husband and wife living together, whether filing jointly or separately, the "low income" tax credit shall be computed on the basis of their combined adjusted gross income and shall be deductible from their combined tax liability.***
- (3) ***The "low income" tax credit shall be computed as follows:***

<b>AMOUNT OF ADJUSTED GROSS INCOME</b>	<b>PERCENT OF TAX LIABILITY ALLOWED AS LOW INCOME TAX CREDIT</b>
<i>not over \$5,000</i>	<i>100%</i>
<i>over \$ 5,000 but not over \$10,000</i>	<i>50%</i>
<i>over \$10,000 but not over \$15,000</i>	<i>25%</i>
<i>over \$15,000 but not over \$20,000</i>	<i>15%</i>
<i>over \$20,000 but not over \$25,000</i>	<i>5%</i>
<i>over \$25,000</i>	<i>-0-</i>

SECTION 639. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

- (1) If the federal adjusted gross income of husband or wife is entered on a separate federal return, their Kentucky adjusted gross incomes may be entered on their separate Kentucky tax returns or their joint Kentucky tax return as they so elect.**
- (2) If the federal adjusted gross income of husband and wife is entered on a joint federal return, or if neither files a federal return:**
- (a) Their adjusted gross income shall be entered on their joint Kentucky tax return; or**
- (b) Separate adjusted gross incomes may be entered on their separate Kentucky tax returns if they so elect.**
- (3) Where husband and wife have not separately reported and claimed items of income and adjustments of income for federal income tax purposes, and have not elected to file a joint Kentucky income tax return, such items allowable for Kentucky income tax purposes shall be allocated and adjusted as follows:**
- (a) Income shall be allocated to the spouse who earned the income or with respect to whose property the income is attributable;**
- (b) Allowable deductions with respect to trade, business, or production of income shall be allocated to the spouse to whom attributable.**

Section 640. KRS 6.505 is amended to read as follows:

- (1) Each legislator in office on July 1, 1980 may within thirty (30) days after that date, and any legislator thereafter taking office may within thirty (30) days after the date thereof, elect to make monthly contributions to the legislators' retirement plan, in an amount equal to five (5) percent of his monthly creditable compensation, as defined in KRS 61.510(13). The election shall be effective to establish membership in the plan as of July 1, 1980 or as of the date from which the thirty (30) day period is measured, as the case may be. Provided, however, that any legislator who was in office on July 1, 1980 and who is in office at the time he makes the election may, after the expiration of the thirty (30) day period and until May 1, 1982; make the election, in which event he shall pay to the legislators' retirement plan, for the months between July 1, 1980 and the date of his election such sum as, when added to any member's contribution by him that is transferred from another retirement system under KRS 6.535, will equal the member's contribution required by this section. If the member makes his election after February 1, 1981, he shall in addition pay to the plan interest on the foregoing sum, at six percent (6%) per annum, calculated as if the sum consisted of equal monthly payments, one of which was due at the end of each month between July 1, 1980 and the date the election was made. The election shall be addressed to and filed with the secretary of the Finance and Administration Cabinet and shall constitute an authorization to the secretary to thereafter cause to be deducted from the member's monthly creditable compensation an amount equal to five (5) percent thereof, as a voluntarily elected contribution by the member towards the funding of the legislators' retirement plan. Such election shall operate to create an inviolable contract between such member and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under KRS 6.515 to 6.530. An election once made under this section either to participate or not to participate in the legislators' retirement plan, shall be considered to apply to all future service as a legislator, whether in the same or a different office as a legislator, and whether or not it is in successive terms.
- (2) The state shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10)(9). The picked up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employee contribution, and the picked up employee contribution shall be in lieu of an employee contribution. The state shall pay these picked up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 6.500 to 6.535 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.
- (3) When any legislator elects membership in the legislators' retirement plan in accordance with this section, his active membership in the Kentucky Employees' Retirement System, state police retirement system, county Employees' Retirement System, or teachers' retirement system shall terminate, as of the date his membership in the legislators' retirement plan becomes effective, and any credit in such other system or

systems, earned for service as a legislator, which he then has or which he subsequently regains while being an active member of the legislators' retirement plan, shall be transferred to and counted as service credit in the legislators retirement plan, and shall no longer constitute credit in such other retirement system except for the purpose of validating any other credit in that system. However, any credit he then has in such other retirement system, earned for service in any capacity other than a legislator, shall not be affected. No person may attain credit in more than one (1) of the retirement plans or systems mentioned in this section, for the same period of service.

(4) A member of the legislators' retirement plan who would be entitled, under KRS 61.552, to repurchase credit in the Kentucky Employees' Retirement System, for previous service as a legislator, which credit had been lost by refund of contributions, may pay the amount required by KRS 61.552 directly to the legislators' retirement plan and thereby obtain credit in that plan for such service, rather than making payment to the Kentucky Employees Retirement System for credit which would be transferred to the legislators' retirement plan. In such event, the Kentucky Employees' Retirement System shall transfer to the legislators' retirement plan an amount equal to the employer's contributions that originally were made to the Kentucky Employees' Retirement System for the regained service credit, with interest as provided in KRS 6.535. Six (6) months' current service shall be required in the legislators' retirement plan in order for the repurchased credit to remain in force, the same as provided in KRS 61.552.

Section 641. KRS 16.545 is amended to read as follows:

(1) Except for members over age fifty-five (55) on July 1, 1958, who shall not be required to contribute, each member shall, commencing on July 1, 1968, contribute for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation.

(2) The employer shall cause to be deducted from the compensation of each member for each and every payroll period subsequent to July 1, 1958, the contributions payable by such member as provided in KRS 16.510 to 16.652.

(3) Every member shall be deemed to consent to deductions made as provided herein; and the payment of salary or compensation less such deduction shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by KRS 16.510 to 16.652.

(4) Each employer shall, solely for the purpose of compliance with section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10)(9)]. These contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employee contribution, and the picked up employee contribution shall be in lieu of an employee contribution. Each employer shall pay these picked up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 16.510 to 16.652 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

Section 642. KRS 21.360 is amended to read as follows:

(1) Each judge of the district court in office on July 1, 1978, may within thirty (30) days after that date, and any judge or justice of any court entitled to be a member thereafter taking office may within thirty (30) days after taking office, elect to make monthly contributions to the retirement system in an amount equal to five percent (5%) of his monthly official salary. The election shall be effective to establish membership in the system as of July 1, 1978, or as of the date the judge or justice took office, as the case may be. The election shall be addressed to and filed with the secretary of the Finance and Administration Cabinet, and shall constitute an authorization by the member, to the secretary, to thereafter cause to be deducted from the member's official salary, each month, an amount equal to five percent (5%) of the monthly salary, as a voluntary contribution by the member towards the funding of the retirement system. Such election, upon being made, shall operate to create an inviolable contract between such member and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under the terms and conditions of KRS 21.350 to 21.510.

(2) Membership and benefit rights for judges and justices (other than judges of the district court), and for the commissioners and administrative director, who took office prior to July 1, 1978, shall be dependent

## ACTS OF THE GENERAL ASSEMBLY

1474

upon valid elections having been made under this section (and KRS 21.355 and 21.365) prior to the 1978 amendment to this section. The terms of such elections, including the contribution rate, shall continue to govern for the duration of the member's service.

(3) When any judge of the district court in office on July 1, 1978 elects membership in the judicial retirement system in accordance with this section, his membership in the Kentucky Employees Retirement System shall terminate as of July 1, 1978 and any credit in that system he earned for service as a judge of the district court shall be nullified; provided that the effect of such service to validate any other service credit in that system shall not be nullified.

(4) The state shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10)(9). The picked up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employee contribution, and the picked up employee contribution shall be in lieu of an employee contribution. The state shall pay these picked up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 21.345 to 21.570 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

(5) An election once made under this section, either to participate or not to participate in the judicial retirement plan, shall be considered to apply, to all future service in any office covered by the plan, whether such service is in the same or a different office, and whether or not it is continuous.

Section 643. KRS 61.560 is amended to read as follows:

(1) Each employee shall, commencing on August 1, 1986, contribute for each pay period for which he receives compensation five percent (5%) of his creditable compensation, except that members of the general assembly, who elect the survivorship option provided in subsections (13) and (14) of KRS 61.635, shall each contribute six and six-tenths percent (6.6%) of creditable compensation commencing with the payroll period immediately following his election of the option. Any other provisions of KRS 61.515 through 61.705 notwithstanding, any reemployed retiree, as described in KRS 61.637, shall contribute five percent (5%) of his creditable compensation, or the amount required by KRS 61.592(3) if applicable, if he anticipates that he will receive more than the maximum permissible earnings, as provided by the federal Social Security Act, in compensation as a result of reemployment during the calendar year.

(2) Each employer shall cause to be deducted from the creditable compensation of each employee for each and every payroll period the contribution payable by each such employee as provided in KRS 61.515 to 61.705.

(3) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided by law for any employee shall be reduced thereby. Every employee shall be deemed to consent and agree to the deductions made as provided herein; and payment of salary or compensation less such deductions shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by KRS 61.515 to 61.705.

(4) Each employer shall, solely for the purpose of compliance with section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10)(9). These contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employee contribution, and the picked up employee contribution shall be in lieu of an employee contribution. Each employer shall pay these picked up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 61.515 to 61.705 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

Section 644. KRS 65.155 is amended to read as follows:

(1) Each local government or local government agency which has a pension plan which is qualified under Section 401(a) of the Internal Revenue Code shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions made to the respective retirement system pursuant to KRS 79.080, 90.400, 90.410, 95.290, 95.580, 95.627, 95.768, 95.769, 95.867 or 96.180 for all compensation earned after August 1, 1982, or after qualification pursuant to Section 401(a) of the Internal Revenue Code, whichever is later, and all contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010~~(10)(9)~~. However, each local government or local government agency shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked up employee contribution shall satisfy all obligations to the retirement fund satisfied prior to August 1, 1982, or later date, as the case may be, by the employee contribution, and the picked up employee contribution shall be in lieu of an employee contribution. The local governments or local government agencies shall pay these picked up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the local government or local government agency to the fund. Employee contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 79.080, 90.400, 90.410, 95.290, 95.580, 95.627, 95.768, 95.769, 95.867 or 96.180 in the same manner and to the same extent as employee contributions made prior to August 1, 1982, or later date of pick up, as the case may be.

(2) The pick up of employee contributions by the employer shall not be construed to reduce the final salary or the average salary upon which the employee retirement benefit may be based in any of the retirement systems covered by this section.

Section 645. KRS 67A.320 is amended to read as follows:

(1) Any urban-county government in which there existed a municipality which had in effect an employees' pension fund prior to its merger into the urban-county form of government shall provide by comprehensive plan or ordinance for the maintenance of the said pension fund for those employees covered by the said pension fund, and shall in each case provide for the payment to the pension fund in each month of the sum necessary to maintain such fund in accordance with the actuarial principles established by the actuarial studies described hereafter, and may assess monthly such amount or percent of the salary of the employees as may be equitably determined on a fair actuarial basis, and in any case not in excess of eight percent (8%) of the monthly salary of each employee unless a higher rate was charged prior to the merger of governments, in which case the higher rate may be charged, the assessment to be deducted from the employees' salaries or picked up pursuant to subsection (2) of this section and paid in cash into the pension fund. Within six (6) months after the effective date of the urban-county form of government, or within six (6) months after June 21, 1974, whichever shall be later, the trustees of the board shall, at the expense of the pension fund, provide for the performance of an actuarial study, which study shall be completed within six (6) months thereafter, and which study shall describe the amounts necessary to be contributed by the urban-county government or other sources to fund on an actuarially sound basis the benefits promised or described in the said fund, including any payments required to bring said fund to an actuarially sound position in the event that it was not so at the time of the performance of the study, in which latter event the legislative body shall also determine a reasonable period over which such additional funding shall be made, which period shall not exceed thirty (30) years. A similar study shall be arranged by the board at the cost of the urban-county government at least once in every three-year period thereafter. In the event that fund created by this section is extended to cover employees not described in the first sentence hereof, the actuarial study shall determine the required payments so as to keep the expanded fund on an actuarially sound basis, and the urban-county government shall maintain such fund as set out herein, and shall assess against the additional covered employees the same monthly contribution as is required for other government employees.

(2) The urban-county government shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010~~(10)(9)~~. However, the urban-county government shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked up employee contribution shall satisfy all obligations to the retirement fund satisfied prior to August 1, 1982 by the employee contribution, and the picked up employee contribution shall be in lieu of an employee contribution. The urban-county government shall pay these picked up employee contributions from the same source of funds which is used to pay earnings to the

## ACTS OF THE GENERAL ASSEMBLY

1476

employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the urban-county government to the fund. Employee contributions picked up after August 1, 1982 shall be treated for all purposes of this section in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

(3) The pick up of employee contributions by the employer shall not be construed to reduce the final salary or the average salary upon which the employee retirement benefit is based.

(4) There is hereby created a board for the existing employees pension fund and trustees of that board Trustees from the pension fund board shall consist of the mayor, four (4) members of the legislative body of the urban-county government selected by the legislative body, the secretary of the Finance and Administration Cabinet, the director of the division of personnel, and three (3) civil service employees to be elected to the board by those employees covered by the employees' pension fund. In the event that there is no position in the urban-county government denominated secretary of the Finance and Administration Cabinet and/or director of the division of personnel, the appointed officer of the urban-county government exercising the functions most closely resembling such office shall serve as trustee.

(5) Temporary employees appointed without examination shall not be compelled to contribute to any pension fund and shall not be eligible to benefits.

(6) In no year shall the contribution by the urban-county government to the pension fund, in the manner provided in this section, be less than the total amount assessed upon and deducted from the salary of the employees.

(7) The trustees of the pension fund shall, at least once every three (3) months, report in writing to the mayor the receipts, expenditures and financial status of the pension fund, stating the places of deposit of funds, or the character of investments made, and the mayor shall cause copies of the report to be posted in at least three (3) places where urban-county employees frequent and report.

Section 646. KRS 67A.510 is amended to read as follows:

(1) Each active member shall contribute a sum equal to not less than eight percent (8%) nor more than ten percent (10%) of current salary, to be determined by the legislative body of the urban-county government. The director of finance of the government is hereby authorized to deduct such amount from the salary of each active member in semimonthly installments. This contribution shall be made as a deduction from salary, notwithstanding that the salary paid in cash to such member may be reduced thereby below the established statutory rate. Every member of the fund shall be deemed to consent and agree to the deduction from salary as herein provided, and shall receipt for his full salary, and payment to such member of salary less such deduction shall constitute a full and complete discharge and acquittance of all claims and demand whatsoever for the services rendered by such member during the period covered by such payment, except as to the benefits herein provided. After August 1, 1982 employee contributions shall be picked up by the urban-county government pursuant to subsection (2) of this section.

(2) The urban-county government shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10)(9). However, the urban-county government shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked up employee contribution shall satisfy all obligations to the retirement fund satisfied prior to August 1, 1982 by the employee contribution, and the picked up employee contribution shall be in lieu of an employee contribution. The urban-county government shall pay these picked up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the urban-county government to the fund. Employee contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 67A.360 to 67A.690 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

Section 647. KRS 78.610 is amended to read as follows:

(1) Each employee shall, commencing on August 1, 1986, contribute for each pay period, for which he receives compensation four and twenty-five hundredths percent (4.25%) of his creditable compensation. Any other provisions of KRS 78.510 to 78.852 notwithstanding, any reemployed retiree, as described in KRS 61.637,

shall contribute four and twenty-five hundredths percent (4.25%) of his creditable compensation, or the amount required by KRS 61.592(3) if applicable, if he anticipates that he will receive more than the maximum permissible earnings, as provided by the federal Social Security Act, in compensation as a result of reemployment during the calendar year.

(2) The treasurer, attorney, clerk, jailer and sheriff of a participating county shall cause to be deducted from the "creditable compensation" of each employee for each and every payroll period subsequent to the date the county participated in the system, including the assumed creditable compensation of fire fighters employed by a district created pursuant to KRS 75.010, the contribution payable by such member as provided in KRS 78.510 to 78.852. The attorney, clerk, jailer and sheriff shall promptly pay such deducted employee contributions to the treasurer for forwarding to the board in accordance with KRS 78.625.

(3) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided by law for any employee shall be reduced thereby. Every employee shall be deemed to consent and agree to the deductions made as provided herein; and payment of salary or compensation less such deductions shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by KRS 78.510 to 78.852.

(4) Each employer shall, solely for the purpose of compliance with section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10)(9). These contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employee contribution, and the picked up employee contribution shall be in lieu of an employee contribution. Each employer shall pay these picked up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 78.510 to 78.852 in the same manner and to the same extent as employee contributions made prior to August 1, 1982. Employee contributions of volunteer fire fighters based upon an assumed salary pursuant to KRS 78.510(13) shall not be picked up by the employer.

Section 648. KRS 161.540 is amended to read as follows:

(1) Effective July 1, 1988, each member shall contribute to the retirement system nine and eight hundred fifty-five thousandths percent (9.855%) of annual compensation, except that university faculty members shall contribute eight and three hundred seventy-five thousandths percent (8.375%) of annual compensation. The contribution of members shall not exceed these applicable percentages on annual compensation. When a member retires, if it is determined that he has made contributions on a salary in excess of the amount to be included for the purpose of calculating his final average salary, any excess contribution shall be refunded to him in a lump sum at the time of the payment of his first retirement allowance. In the event a member is awarded a court-ordered back salary payment the employer shall deduct and remit the member contribution on the salary payment, plus interest to be paid by the employer, to the retirement system unless otherwise specified by the court order.

(2) Each public board, institution or agency, as listed in KRS 161.220(4)(a) through (f) shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10)(9). However, each public board, institution or agency shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked up employee contribution shall be in lieu of an employee contribution. Each employer shall pay these picked up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 161.220 to 161.714 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

Section 649. Except as otherwise provided, the provisions of Part VIIID of this Act shall apply to taxable years beginning after December 31, 1989.

## ACTS OF THE GENERAL ASSEMBLY

1478

Section 650. The provisions of Section 630, subsection (10)(g)2. of this Act shall not apply to taxable years beginning after December 31, 1991.

## PART VIII - NONCODIFIED MATERIAL

Section 651. Whereas, the decision of the Supreme Court of Kentucky in **Rose v. Council for Bett Education, Inc.**, mandates that the General Assembly reform and improve the system of common schools in Kentucky; and

Whereas, the reforms imposed by the court and recommended by the educational task force have vastly expanded educational programs and the state's role in these programs; and

Whereas, with the expansion of educational programs comes an expansion of the costs necessary to pay for such programs; and

Whereas, the Governor has indicated and the General Assembly agrees that state revenues are insufficient to pay for the needed improvements and that an increase in revenues is the only solution to that insufficiency but is incidental to education reform; and

Whereas, primary state funding for education comes from the General Fund, which is a commingling of revenues from various sources and which is spent for general government purposes as well as for education; and

Whereas, the amount of the tax increases proposed, together with revenues from the General Fund will both be necessary to fund the educational programs contained in this legislation:

The General Assembly finds and declares that the revenue measures contained in this Act are a necessary incident to the education reform provisions of this Act.

Section 652. Because of the extraordinary complexity of this legislation, its special importance to the Commonwealth and her people, and the need for accuracy and consistency in its interrelationships, the General Assembly expressly authorizes and directs the Reviser of Statutes, in addition to and without derogation of his existing authority under KRS 7.140 and 7.136, to make all technical changes and corrections in the Kentucky Revised Statutes necessary and appropriate to carry out the intent of this Act, including the following:

- (1) Changing any existing or newly created references to public officers, boards, or agencies whose duties or authority have been altered or abolished by this Act to the comparable public officer, board, or agency that has been assigned those duties or authority by the terms of this Act;
- (2) Where the context makes clear the words to be supplied, inserting any omitted words or phrases within newly created language, when, in his best judgment, this can be done without altering the sense, meaning, or effect of the particular section of this Act;
- (3) Changing existing or newly-created statutory cross-references to reflect renumbered sections or subdivisions thereof, or, in the case of repealed sections, to indicate analogous newly-created sections or subdivisions thereof, when, in his best judgment, the substance of the newly-created section is comparable to that of the section repealed; and
- (4) Making any other statutory additions, deletions, or modifications which are necessary in his best judgment to effect the intent of this Act.

Section 653. The provisions of KRS 446.260 notwithstanding,

(1) If any provision of this Act repeals and reenacts a statute section amended by another act adopted at this 1990 regular session of the General Assembly, the repeal and reenactment by this Act shall have no effect.

(2) If any provision of this Act amends or repeals and reenacts a statute section repealed by another act adopted at this 1990 regular session of the General Assembly prior to the adoption of this Act, the prior repeal shall have no effect.

Section 654. The modification of KRS 12.020, I.7., contained in Section 52 of this Act shall be effective July 1, 1991; the other amendments to KRS 12.020 contained in Section 52 shall have the regular effective date of this Act.