

Vapor Tax

- 1 thereto.
- 2 (2) No contract shall be made with an ambulance service or other organization or
3 person unless the contract shall stipulate that at least one (1) person on each
4 ambulance run shall possess currently valid emergency medical technician
5 certification.
- 6 (3) All contracts made with any ambulance service or other organization or person shall
7 stipulate that all vehicles used for operation of the service comply with vehicle and
8 equipment administrative regulations issued by the Cabinet for Health and Family
9 Services.
- 10 (4) All contracts shall include the stipulation that at least two (2) trained persons, one
11 (1) driver and one (1) attendant, shall be carried on each ambulance for each
12 ambulance call which is covered by the contract.
- 13 (5) No contract shall be made for a period of time greater than four (4) years~~one (1)~~
14 ~~year~~.
- 15 (6) The vehicle, equipment, training, and personnel requirements of subsections (2),
16 (3), and (4) of this section shall also apply to the operation of an ambulance service
17 by a city or a county or by a city and a county jointly.
- 18 (7) No provisions of this section shall be construed as to limit the power of any city or
19 county to contract for or operate ambulance services under requirements which are
20 stricter than those of this section, or to require insurance, or bonding of contractors,
21 provided these provisions are not in conflict with the requirements of this section.

22 ➔ Section 50. KRS 138.130 is amended to read as follows:

23 As used in KRS 138.130 to 138.205:

- 24 (1) (a) "Chewing tobacco" means any leaf tobacco that is not intended to be smoked
25 and includes loose leaf chewing tobacco, plug chewing tobacco, and twist
26 chewing tobacco.
- 27 (b) "Chewing tobacco" does not include snuff;

- 1 (2) ~~[(a)]~~ "Cigarettes" means any roll for smoking made wholly or in part of tobacco,
2 or any substitute for tobacco, irrespective of size or shape and whether or not
3 the tobacco is flavored, adulterated, or mixed with any other ingredient, the
4 wrapper or cover of which is made of paper or any other substance or
5 material, except tobacco~~];~~
- 6 ~~(b) "Cigarettes" does not include reference tobacco products or electronic~~
7 ~~cigarettes];~~
- 8 (3) "Cigarette tax" means the group of taxes consisting of:
- 9 (a) The tax imposed by KRS 138.140(1)(a);
10 (b) The surtax imposed by KRS 138.140(1)(b); and
11 (c) The surtax imposed by KRS 138.140(1)(c);
- 12 (4) (a) "Closed vapor cartridge" means a pre-filled disposable cartridge that:
- 13 1. Is intended to be used with or in a noncombustible product that
14 employs a heating element, battery, power source, electronic circuit, or
15 other electronic, chemical, or mechanical means, regardless of shape
16 or size, to deliver vaporized or aerosolized nicotine, non-nicotine
17 substances, or other materials to users that may be inhaling from the
18 product such as any electronic cigarette, electronic cigar, electronic
19 cigarillo, electronic pipe, or other similar product or device and every
20 variation thereof, regardless of whether marketed as such; and
- 21 2. Contains nicotine or non-nicotine substances or other material
22 consumed during the process of vaporization or aerosolization.
- 23 (b) "Closed vapor cartridge" does not include any product regulated as a drug
24 or device by the United States Food and Drug Administration under
25 Chapter V of the Food, Drug, and Cosmetic Act;
- 26 (5) "Department" means the Department of Revenue;
- 27 ~~(6)~~~~(5)~~ "Distributor" means any person within this state in possession of tobacco

1 products or vapor products for resale within this state on which the tobacco
2 products tax imposed under KRS 138.140(2) has not been paid;

3 ~~(7)(6)~~ "Half-pound unit" means a consumer-sized container, pouch, or package:

4 (a) Containing at least four (4) ounces but not more than eight (8) ounces of
5 chewing tobacco by net weight;

6 (b) Produced by the manufacturer to be sold to consumers as a half-pound unit
7 and not produced to be divided or sold separately; and

8 (c) Containing one (1) individual container, pouch, or package;

9 ~~(8)(7)~~ "Manufacturer" means any person who manufactures or produces cigarettes or
10 tobacco products within or without this state;

11 ~~(9)(8)~~ "Nonresident wholesaler" means any person who purchases cigarettes directly
12 from the manufacturer and maintains a permanent location outside this state where
13 Kentucky cigarette tax evidence is attached or from where Kentucky cigarette tax is
14 reported and paid;

15 ~~(10)(9)~~ (a) "Open vaping system" means:

16 1. Any noncombustible product that employs a heating element, battery,
17 power source, electronic circuit, or other electronic, chemical, or
18 mechanical means, regardless of shape or size and including the
19 component parts and accessories thereto, that uses a refillable liquid
20 solution to deliver vaporized or aerosolized nicotine, non-nicotine
21 substances, or other materials to users that may be inhaling from the
22 product such as any electronic cigarette, electronic cigar, electronic
23 cigarillo, electronic pipe, or similar product or device and every
24 variation thereof, regardless of whether marketed as such; and

25 2. Any liquid solution that is intended to be used with the product
26 described in subparagraph 1. of this paragraph.

27 (b) "Open vaping system" does not include any product regulated as a drug or

1 device by the United States Food and Drug Administration under Chapter V
2 of the Food, Drug, and Cosmetic Act;

3 (11) "Person" means any individual, firm, copartnership, joint venture, association,
4 municipal or private corporation whether organized for profit or not, the
5 Commonwealth of Kentucky or any of its political subdivisions, an estate, trust, or
6 any other group or combination acting as a unit;

7 (12)~~(10)~~ "Pound unit" means a consumer-sized container, pouch, or package:

8 (a) Containing more than eight (8) ounces but not more than sixteen (16) ounces
9 of chewing tobacco by net weight;

10 (b) Produced by the manufacturer to be sold to consumers as a pound unit and not
11 produced to be divided or sold separately; and

12 (c) Containing one (1) individual container, pouch, or package;

13 (13)~~(11)~~ "Reference~~[- tobaceo]~~ products" means tobacco products, vapor products, or
14 cigarettes made by a manufacturer specifically for an accredited state college or
15 university to be held by the college or university until sale or transfer to a
16 laboratory, hospital, medical center, institute, college or university, manufacturer, or
17 other institution;

18 (14)~~(12)~~ "Resident wholesaler" means any person who purchases at least seventy-five
19 percent (75%) of all cigarettes purchased by the wholesaler directly from the
20 manufacturer on which the cigarette tax is unpaid, and who maintains an established
21 place of business in this state where the wholesaler attaches cigarette tax evidence
22 or receives untax-paid cigarettes;

23 (15)~~(13)~~ "Retail distributor" means a retailer who has obtained a retail distributor's
24 license under KRS 138.195;

25 (16)~~(14)~~ "Retailer" means any person who sells to a consumer or to any person for any
26 purpose other than resale;

27 (17)~~(15)~~ "Sale" or "sell" means any transfer for a consideration, exchange, barter, gift,

1 offer for sale, advertising for sale, soliciting an order for cigarettes or tobacco
2 products, and distribution in any manner or by any means whatsoever;

3 ~~(18)~~~~(16)~~ "Sale at retail" means a sale to any person for any other purpose other than
4 resale;

5 ~~(19)~~~~(17)~~ "Single unit" means a consumer-sized container, pouch, or package:

6 (a) Containing less than four (4) ounces of chewing tobacco by net weight;

7 (b) Produced by the manufacturer to be sold to consumers as a single unit and not
8 produced to be divided or sold separately; and

9 (c) Containing one (1) individual container, pouch, or package;

10 ~~(20)~~~~(18)~~ (a) "Snuff" means tobacco that:

11 1. Is finely cut, ground, or powdered; and

12 2. Is not for smoking.

13 (b) "Snuff" includes snus;

14 ~~(21)~~~~(19)~~ "Sub-jobber" means any person who purchases cigarettes from a resident
15 wholesaler, nonresident wholesaler, or unclassified acquirer licensed under KRS
16 138.195 on which the cigarette tax has been paid and makes them available to
17 retailers for resale. No person shall make cigarettes available to retailers for resale
18 unless the person certifies and establishes to the satisfaction of the department that
19 firm arrangements have been made to regularly supply at least five (5) retail
20 locations with Kentucky tax-paid cigarettes for resale in the regular course of
21 business;

22 ~~(22)~~~~(20)~~ "Tax evidence" means any stamps, metered impressions, or other indicia
23 prescribed by the department by administrative regulation as a means of denoting
24 the payment of cigarette taxes;

25 ~~(23)~~~~(21)~~ "Tobacco products" means any smokeless tobacco products, smoking tobacco,
26 chewing tobacco, and any kind or form of tobacco prepared in a manner suitable for
27 chewing or smoking, or both, or any kind or form of tobacco that is suitable to be

1 placed in an individual's oral cavity, except cigarettes;

2 ~~(24)~~~~(22)~~ "Tobacco products tax" means the tax imposed by KRS 138.140(2)(a)1. to 3.;

3 ~~(25)~~~~(23)~~ "Transporter" means any person transporting untax-paid cigarettes obtained
4 from any source to any destination within this state, other than cigarettes transported
5 by the manufacturer thereof;

6 ~~(26)~~~~(24)~~ "Unclassified acquirer" means any person in this state who acquires cigarettes
7 from any source on which the cigarette tax has not been paid, and who is not a
8 person otherwise required to be licensed under KRS 138.195;

9 ~~(27)~~~~(25)~~ "Untax-paid cigarettes" means any cigarettes on which the cigarette tax
10 imposed by KRS 138.140 has not been paid;

11 ~~(28)~~~~(26)~~ "Untax-paid tobacco or vapor products" means any tobacco products or vapor
12 products on which the ~~tobacco products~~ tax imposed by KRS 138.140(2) has not
13 been paid;~~and~~

14 (29) "Vapor products" means a closed vapor cartridge or an open vaping system;

15 (30) "Vapor products tax" means tax imposed under subsection (2)(a)4. and 5. of
16 Section 53 of this Act; and

17 ~~(31)~~~~(27)~~ "Vending machine operator" means any person who operates one (1) or more
18 cigarette vending machines.

19 ➔Section 51. KRS 138.132 is amended to read as follows:

20 (1) It is the declared legislative intent of KRS 138.130 to 138.205 that any untax-paid
21 tobacco products or vapor products held, owned, possessed, or in control of any
22 person other than as provided in KRS 138.130 to 138.205 are contraband and
23 subject to seizure and forfeiture as set out in this section.

24 (2) (a) If a retailer, who is not a licensed retail distributor, purchases tobacco
25 products or vapor products from a licensed distributor and the purchase
26 invoice does not contain the separate identification and display of the tobacco
27 products tax or vapor products tax, the retailer shall, within twenty-four (24)

- 1 hours, notify the department in writing.
- 2 (b) The notification shall include the name and address of the person from whom
3 the tobacco products or vapor products were purchased and a copy of the
4 purchase invoice.
- 5 (c) The tobacco products or vapor products for which the required information
6 was not included on the invoice shall be retained by the retailer, and not sold,
7 for a period of fifteen (15) days after giving the proper notice as required by
8 this subsection.
- 9 (d) After the fifteen (15) day period, the retailer may pay the tax due on the
10 tobacco products or vapor products described in paragraph (c) of this
11 subsection according to administrative regulations promulgated by the
12 department, and after which may proceed to sell the tobacco products or vapor
13 products.
- 14 (3) If a retailer, who is not a licensed retail distributor, purchases tobacco products or
15 vapor products for resale from a person not licensed under KRS 138.195(7), which
16 is prohibited by KRS 138.140(2), the retailer may not sell those tobacco products or
17 vapor products until the retailer applies for and is granted a retail distributor's
18 license under KRS 138.195(7)(b).
- 19 (4) If, upon examination, the department determines that the retailer has failed to
20 comply with the provisions of subsection (3) of this section, the retailer shall pay all
21 tax and interest and applicable penalties due and the following shall apply:
- 22 (a) For the first offense, an additional penalty shall be assessed equal to ten
23 percent (10%) of the tax due;
- 24 (b) For a second offense within three (3) years or less of the first offense, an
25 additional penalty shall be assessed equal to twenty-five percent (25%) of the
26 tax due; and
- 27 (c) For a third offense or subsequent offense within three (3) years or less of the

1 first offense, the tobacco products or vapor products shall be contraband and
2 subject to seizure and forfeiture as provided in subsection (5) of this section.

3 (5) (a) Whenever a representative of the department finds contraband tobacco
4 products or contraband vapor products within the borders of this state, the
5 tobacco products or vapor products shall be immediately seized and stored in
6 a depository to be determined by the representative.

7 (b) At the time of seizure, the representative shall deliver to the person in whose
8 custody the tobacco products or vapor products are found a receipt for the
9 seized products. The receipt shall state on its face that any inquiry concerning
10 any tobacco products or vapor products seized shall be directed to the
11 commissioner of the Department of Revenue, Frankfort, Kentucky.

12 (c) Immediately upon seizure, the representative shall notify the commissioner of
13 the nature and quantity of the tobacco products or vapor products seized. Any
14 seized tobacco products or vapor products shall be held for a period of twenty
15 (20) days, and if after that period no person has claimed the tobacco products
16 or vapor products as his or her property, the commissioner shall cause the
17 tobacco products or vapor products to be destroyed.

18 (6) All fixtures, equipment, materials, and personal property used in substantial
19 connection with the sale or possession of tobacco products or vapor products
20 involved in a knowing and intentional violation of KRS 138.130 to 138.205 shall be
21 contraband and subject to seizure and forfeiture as follows:

22 (a) The department's representative shall seize the property and store the property
23 in a safe place selected by the representative; and

24 (b) The representative shall proceed as provided in KRS 138.165(2). The
25 commissioner shall cause the property to be sold after notice published
26 pursuant to KRS Chapter 424. The proceeds from the sale shall be applied as
27 provided in KRS 138.165(2).

1 (7) The owner or any person having an interest in the fixtures, materials, or personal
2 property that has been seized as provided by subsection (6) of this section may
3 apply to the commissioner for remission of the forfeiture for good cause shown. If it
4 is shown to the satisfaction of the commissioner that the owner or person having an
5 interest in the property was without fault, the department shall remit the forfeiture.

6 (8) Any party aggrieved by an order entered under this section may appeal to the
7 Kentucky Claims Commission pursuant to KRS 49.220.

8 ➔Section 52. KRS 138.135 is amended to read as follows:

9 (1) (a) Every manufacturer, whether located in this state or outside this state, that
10 ships tobacco products or vapor products to a distributor, retailer, retail
11 distributor, or any other person located in this state shall file a report with the
12 department on or before the twentieth day of each month identifying all such
13 shipments made by the manufacturer during the preceding month. The
14 department, within its discretion, may allow a manufacturer to file the report
15 for periods other than monthly.

16 (b) The reports shall identify:

- 17 1. The names and addresses of the persons in this state to whom the
18 shipments were made;
- 19 2. The quantities of tobacco products and vapor products shipped, by type
20 of product and brand; and
- 21 3. Any other information the department may require.

22 (2) Each licensed distributor and each licensed retail distributor shall keep in each
23 licensed place of business complete and accurate records for that place of business,
24 including:

25 (a) Itemized invoices of:

- 26 1. Tobacco products and vapor products purchased, manufactured,
27 imported, or caused to be imported into this state from outside this state,

- 1 or shipped or transported to other distributors or retailers in this state or
2 outside this state, including type of product and brand;
- 3 2. All sales of tobacco products and vapor products, including sales of
4 tobacco products and vapor products manufactured or produced in this
5 state, including type of product and brand; and
- 6 3. All tobacco products and vapor products transferred to retail outlets
7 owned or controlled by the licensed distributor, including type of
8 product and brand; and
- 9 (b) Any other records required by the department.
- 10 (3) Each retailer of tobacco products or vapor products shall keep complete and
11 accurate records of all purchases of tobacco products or vapor products, including
12 invoices that identify:
- 13 (a) The distributor's name and address;
- 14 (b) The name, quantity, and purchase price of the product purchased;
- 15 (c) The license number of the distributor licensed under KRS 138.195(7); and
- 16 (d) The tobacco products tax or the vapor products tax imposed by Section 53 of
17 this Act~~[KRS 138.140]~~.
- 18 (4) All books, records, invoices, and documents required by this section shall be
19 preserved, in a form prescribed by the department, for not less than four (4) years
20 from the making of the records unless the department authorizes, in writing, the
21 destruction of the records.
- 22 ➔Section 53. KRS 138.140 is amended to read as follows:
- 23 (1) (a) A tax shall be paid on the sale of cigarettes within the state at a proportionate
24 rate of three cents (\$0.03) on each twenty (20) cigarettes.
- 25 (b) Effective July 1, 2018, a surtax shall be paid in addition to the tax levied in
26 paragraph (a) of this subsection at a proportionate rate of one dollar and six
27 cents (\$1.06) on each twenty (20) cigarettes.

1 (c) A surtax shall be paid in addition to the tax levied in paragraph (a) of this
 2 subsection and in addition to the surtax levied by paragraph (b) of this
 3 subsection, at a proportionate rate of one cent (\$0.01) on each twenty (20)
 4 cigarettes. The revenues from this surtax shall be deposited in the cancer
 5 research institutions matching fund created in KRS 164.043.

6 (d) The surtaxes imposed by paragraphs (b) and (c) of this subsection shall be
 7 paid at the time that the tax imposed by paragraph (a) of this subsection is
 8 paid.

9 (2) (a) An excise tax is hereby imposed upon every distributor for the privilege of
 10 selling tobacco products in this state at the following rates:

11 1. Upon snuff at the rate of nineteen cents (\$0.19) per each one and one-
 12 half (1-1/2) ounces or portion thereof by net weight sold;

13 2. Upon chewing tobacco at the rate of:

14 a. Nineteen cents (\$0.19) per each single unit sold;

15 b. Forty cents (\$0.40) per each half-pound unit sold; or

16 c. Sixty-five cents (\$0.65) per each pound unit sold.

17 If the container, pouch, or package on which the tax is levied contains
 18 more than sixteen (16) ounces by net weight, the rate that shall be
 19 applied to the unit shall equal the sum of sixty-five cents (\$0.65) plus
 20 nineteen cents (\$0.19) for each increment of four (4) ounces or portion
 21 thereof exceeding sixteen (16) ounces sold; ~~and~~

22 3. Upon tobacco products sold, at the rate of fifteen percent (15%) of the
 23 actual price for which the distributor sells tobacco products, except snuff
 24 and chewing tobacco, within the Commonwealth;

25 4. Upon closed vapor cartridges, one dollar and fifty cents (\$1.50) per
 26 cartridge; and

27 5. Upon open vaping systems, fifteen percent (15%) of the actual price

1 for which the distributor sells the open vaping system.

2 (b) The net weight posted by the manufacturer on the container, pouch, or
3 package or on the manufacturer's invoice shall be used to calculate the tax due
4 on snuff or chewing tobacco.

5 (c) 1. A retailer located in this state shall not purchase tobacco products for
6 resale to consumers from any person within or outside this state unless
7 that person is a distributor licensed under KRS 138.195(7)(a) or the
8 retailer applies for and is granted a retail distributor's license under KRS
9 138.195(7)(b) for the privilege of purchasing untax-paid tobacco
10 products and remitting the tax as provided in this paragraph.

11 2. A licensed retail distributor of tobacco products shall be subject to the
12 excise tax as follows:

13 a. On purchases of untax-paid snuff, at the same rate levied by
14 paragraph (a)1. of this subsection;

15 b. On purchases of untax-paid chewing tobacco, at the same rates
16 levied by paragraph (a)2. of this subsection; [and]

17 c. On purchases of untax-paid tobacco products, except snuff and
18 chewing tobacco, fifteen percent (15%) of the total purchase price
19 as invoiced by the retail distributor's supplier;

20 d. On purchases of untax-paid closed vapor cartridges, at the same
21 rate levied by paragraph (a)4. of this subsection; and

22 e. On purchases of untax-paid open vaping systems, fifteen percent
23 (15%) of the total purchase price as invoiced by the retail
24 distributor's supplier.

25 (d) 1. The licensed distributor that first possesses tobacco products or vapor
26 products for sale to a retailer in this state or for sale to a person who is
27 not licensed under KRS 138.195(7) shall be the distributor liable for the

- 1 tax imposed by this subsection except as provided in subparagraph 2. of
2 this paragraph.
- 3 2. A distributor licensed under KRS 138.195(7)(a) may sell tobacco
4 products or vapor products to another distributor licensed under KRS
5 138.195(7)(a) without payment of the excise tax. In such case, the
6 purchasing licensed distributor shall be the distributor liable for the tax.
- 7 3. A licensed distributor or licensed retail distributor shall:
- 8 a. Identify and display the distributor's or retail distributor's license
9 number on the invoice to the retailer; and
- 10 b. Identify and display the excise tax separately on the invoice to the
11 retailer. If the excise tax is included as part of the product's sales
12 price, the licensed distributor or licensed retail distributor shall list
13 the total excise tax in summary form by tax type with invoice
14 totals.
- 15 4. It shall be presumed that the excise tax has not been paid if the licensed
16 distributor or licensed retail distributor does not comply with
17 subparagraph 3. of this paragraph.
- 18 (e) No tax shall be imposed on tobacco products or vapor products under this
19 subsection that are not within the taxing power of this state under the
20 Commerce Clause of the United States Constitution.
- 21 (3) (a) The taxes imposed by subsections (1) and (2) of this section:
- 22 1. Shall not apply to reference~~[tobacco]~~ products; and
- 23 2. Shall be paid only once, regardless of the number of times the cigarettes
24 or tobacco products may be sold.
- 25 (b) The taxes imposed by subsection (1)(a) and (b) and subsection (2) of this
26 section shall be reduced by:
- 27 1. Fifty percent (50%) on any product as to which a modified risk tobacco

- 1 product order is issued under 21 U.S.C. sec. 387k(g)(1); or
- 2 2. Twenty-five percent (25%) for any product as to which a modified risk
3 tobacco product order is issued under 21 U.S.C. sec. 387k(g)(2).
- 4 (4) A reference[~~tobacco~~] product shall carry a marking labeling the contents as a
5 research cigarette, research vapor product, or a research tobacco product to be used
6 only for tobacco-health research and experimental purposes and shall not be offered
7 for sale, sold, or distributed to consumers.
- 8 (5) The department may prescribe forms and promulgate administrative regulations to
9 execute and administer the provisions of this section.
- 10 (6) The General Assembly recognizes that increasing taxes on tobacco products should
11 reduce consumption, and therefore result in healthier lifestyles for Kentuckians. The
12 relative taxes on tobacco products proposed in this section reflect the growing data
13 from scientific studies suggesting that although smokeless tobacco poses some
14 risks, those health risks are significantly less than the risks posed by other forms of
15 tobacco products. Moreover, the General Assembly acknowledges that some in the
16 public health community recognize that tobacco harm reduction should be a
17 complementary public health strategy regarding tobacco products. Taxing tobacco
18 products according to relative risk is a rational tax policy and may well serve the
19 public health goal of reducing smoking-related mortality and morbidity and
20 lowering health care costs associated with tobacco-related disease.
- 21 (7) Any person subject to the taxes imposed under subsections (1) and (2) of this
22 section that:
- 23 (a) Files an application related to a modified risk tobacco product shall report to
24 the department that an application has been filed within thirty (30) days of that
25 filing; and
- 26 (b) Receives an order authorizing the marketing of a modified risk tobacco
27 product shall report to the department that an authorizing order has been

1 received.

2 (8) Upon receipt of the information required by subsection (7)(b) of this section, the
3 department shall reduce the tax imposed on the modified risk tobacco product as
4 required by subsection (3)(b) of this section on the first day of the calendar month
5 following the expiration of forty-five (45) days following receipt of the information
6 required by subsection (7)(b) of this section.

7 ➔Section 54. KRS 138.183 is amended to read as follows:

8 (1) Notwithstanding any other provision of this chapter to the contrary, the president,
9 vice president, secretary, treasurer, or any other person holding any equivalent
10 corporate office of any corporation subject to the provisions of KRS 138.130 to
11 138.205 shall be personally and individually liable, both jointly and severally, for
12 the taxes imposed by Section 53 of this Act~~cigarette tax and the tobacco products~~
13 ~~tax~~.

14 (2) Corporate dissolution, withdrawal of the corporation from the state, or the cessation
15 of holding any corporate office shall not discharge the liability of any person. The
16 personal and individual liability shall apply to every person holding a corporate
17 office at the time the tax becomes or became due.

18 (3) Notwithstanding any other provision of this chapter, KRS 275.150, 362.1-306(3) or
19 predecessor law, or KRS 362.2-404(3) to the contrary, the managers of a limited
20 liability company, the partners of a limited liability partnership, and the general
21 partners of a limited liability limited partnership or any other person holding any
22 equivalent office of a limited liability company, limited liability partnership or
23 limited liability limited partnership subject to the provisions of KRS 138.130 to
24 138.205 shall be personally and individually liable, both jointly and severally, for
25 the taxes imposed by Section 53 of this Act~~cigarette tax and the tobacco products~~
26 ~~tax~~.

27 (4) Dissolution, withdrawal of the limited liability company, limited liability

1 partnership, or limited liability limited partnership from the state, or the cessation of
2 holding any office shall not discharge the liability of any person. The personal and
3 individual liability shall apply to every manager of a limited liability company,
4 partner of a limited liability partnership or general partner of a limited liability
5 limited partnership at the time the tax becomes or became due.

6 (5) No person shall be personally and individually liable under this section who had no
7 authority to collect, truthfully account for, or pay over any tax imposed by Section
8 53 of this Act~~{cigarette tax or tobacco products tax}~~ at the time the taxes imposed
9 become or became due.

10 (6) "Taxes" as used in this section include interest accrued at the rate provided by KRS
11 131.183, all applicable penalties imposed under the provisions of this chapter, and
12 all applicable penalties imposed under the provisions of KRS 131.180, 131.410 to
13 131.445, and 131.990.

14 ➔Section 55. KRS 138.195 is amended to read as follows:

15 (1) (a) No person other than a manufacturer shall acquire cigarettes in this state on
16 which the Kentucky cigarette tax has not been paid, nor act as a resident
17 wholesaler, nonresident wholesaler, vending machine operator, sub-jobber,
18 transporter or unclassified acquirer of such cigarettes without first obtaining a
19 license from the department as set out in this section.

20 (b) No person shall act as a distributor of tobacco products or vapor products
21 without first obtaining a license from the department as set out in this section.

22 (c) For licenses effective for periods beginning on or after July 1, 2015, no
23 individual, entity, or any other group or combination acting as a unit may be
24 eligible to obtain a license under this section if the individual, or any partner,
25 director, principal officer, or manager of the entity or any other group or
26 combination acting as a unit has been convicted of or entered a plea of guilty
27 or nolo contendere to:

- 1 1. A crime relating to the reporting, distribution, sale, or taxation of
2 cigarettes, ~~or~~ tobacco products, or vapor products; or
- 3 2. A crime involving fraud, falsification of records, improper business
4 transactions or reporting;
5 for ten (10) years from the expiration of probation or final discharge from
6 parole or maximum expiration of sentence.
- 7 (2) (a) Each resident wholesaler shall secure a separate license for each place of
8 business at which cigarette tax evidence is affixed or at which cigarettes on
9 which the Kentucky cigarette tax has not been paid are received.
- 10 (b) Each nonresident wholesaler shall secure a separate license for each place of
11 business at which evidence of Kentucky cigarette tax is affixed or from where
12 Kentucky cigarette tax is reported and paid.
- 13 (c) Each license shall be secured on or before July 1 of each year.
- 14 (d) Each licensee shall pay the sum of five hundred dollars (\$500) for each year,
15 or portion thereof, for which each license is secured.
- 16 (3) (a) Each sub-jobber shall secure a separate license for each place of business from
17 which cigarettes, upon which the cigarette tax has been paid, are made
18 available to retailers, whether the place of business is located within or
19 without this state.
- 20 (b) Each license shall be secured on or before July 1 of each year.
- 21 (c) Each licensee shall pay the sum of five hundred dollars (\$500) for each year,
22 or portion thereof, for which each license is secured.
- 23 (4) (a) Each vending machine operator shall secure a license for the privilege of
24 dispensing cigarettes, on which the cigarette tax has been paid, by vending
25 machines.
- 26 (b) Each license shall be secured on or before July 1 of each year.
- 27 (c) Each licensee shall pay the sum of twenty-five dollars (\$25) for each year, or

- 1 portion thereof, for which each license is secured.
- 2 (d) No vending machine shall be operated within this Commonwealth without
- 3 having prominently affixed thereto the name of its operator and the license
- 4 number assigned to that operator by the department.
- 5 (e) The department shall prescribe by administrative regulation the manner in
- 6 which the information shall be affixed to the vending machine.
- 7 (5) (a) Each transporter shall secure a license for the privilege of transporting
- 8 cigarettes within this state.
- 9 (b) Each license shall be secured on or before July 1 of each year.
- 10 (c) Each licensee shall pay the sum of fifty dollars (\$50) for each year, or portion
- 11 thereof, for which each license is secured.
- 12 (d) No transporter shall transport any cigarettes without having in actual
- 13 possession an invoice or bill of lading therefor, showing:
- 14 1. The name and address of the consignor and consignee;
- 15 2. The date acquired by the transporter;
- 16 3. The name and address of the transporter;
- 17 4. The quantity of cigarettes being transported; and
- 18 5. The license number assigned to the transporter by the department.
- 19 (6) Each unclassified acquirer shall secure a license for the privilege of acquiring
- 20 cigarettes on which the cigarette tax has not been paid. The license shall be secured
- 21 on or before July 1 of each year. Each licensee shall pay the sum of fifty dollars
- 22 (\$50) for each year, or portion thereof, for which the license is secured.
- 23 (7) (a) 1. Each distributor shall secure a license for the privilege of selling tobacco
- 24 products or vapor products in this state. Each license shall be secured on
- 25 or before July 1 of each year, and each licensee shall pay the sum of five
- 26 hundred dollars (\$500) for each year, or portion thereof, for which the
- 27 license is secured.

- 1 2. a. A resident wholesaler, nonresident wholesaler, or subjobber
2 licensed under this section may also obtain and maintain a
3 distributor's license at each place of business at no additional cost
4 each year.
- 5 b. An unclassified acquirer licensed under this section may also
6 obtain and maintain a distributor's license for the privilege of
7 selling tobacco products or vapor products in this state. The
8 license shall be secured on or before July 1 of each year, and each
9 licensee shall pay the sum of four hundred fifty dollars (\$450) for
10 each year, or portion thereof, for which the license is secured.
- 11 3. The department may, upon application, grant a distributor's license to a
12 person other than a retailer and who is not otherwise required to hold a
13 distributor's license under this paragraph. If the department grants the
14 license, the licensee shall pay the sum of five hundred dollars (\$500) for
15 each year, or portion thereof, for which the license is secured, and the
16 licensee shall be subject to the excise tax in the same manner and subject
17 to the same requirements as a distributor required to be licensed under
18 this paragraph.
- 19 (b) The department may, upon application, grant a retail distributor's license to a
20 retailer for the privilege of purchasing tobacco products or vapor products
21 from a distributor not licensed by the department. If the department grants the
22 license, the licensee shall pay the sum of one hundred dollars (\$100) for each
23 year, or portion thereof, for which the license is secured.
- 24 (8) Nothing in KRS 138.130 to 138.205 shall be construed to prevent the department
25 from requiring a person to purchase more than one (1) license if the nature of that
26 person's business is so diversified as to justify the requirement.
- 27 (9) (a) The department may by administrative regulation require any person

1 requesting a license or holding a license under this section to supply such
2 information concerning his business, sales or any privilege exercised, as is
3 deemed reasonably necessary for the regulation of the licensees, and to protect
4 the revenues of the state.

5 (b) Failure on the part of the applicant or licensee to:

6 1. Comply with KRS 131.600 to 131.630, 138.130 to 138.205, 248.752, or
7 248.754 or any administrative regulations promulgated thereunder; or

8 2. Permit an inspection of premises, machines, or vehicles by an authorized
9 agent of the department at any reasonable time;

10 shall be grounds for the denial or revocation of any license issued by the
11 department, after due notice and a hearing by the department.

12 (c) The commissioner may assign a time and place for the hearing and may
13 appoint a conferee who shall conduct a hearing, receive evidence, and hear
14 arguments.

15 (d) The conferee shall thereupon file a report with the commissioner together with
16 a recommendation as to the denial or revocation of the license.

17 (e) From any denial or revocation made by the commissioner on the report, the
18 licensee may prosecute an appeal to the Kentucky Claims Commission
19 pursuant to KRS 49.220.

20 (f) Any person whose license has been revoked for the willful violation of any
21 provision of KRS 131.600 to 131.630, 138.130 to 138.205, 248.752, or
22 248.754 or any administrative regulations promulgated thereunder shall not be
23 entitled to any license provided for in this section, or have any interest in any
24 license, either disclosed or undisclosed, either as an individual, partnership,
25 corporation or otherwise, for a period of two (2) years after the revocation.

26 (10) No license issued pursuant to this section shall be transferable or negotiable except
27 that a license may be transferred between an individual and a corporation, if that

1 individual is the exclusive owner of that corporation, or between a subsidiary
2 corporation and its parent corporation.

3 (11) Every manufacturer located or doing business in this state and the first person to
4 import cigarettes into this state shall keep written records of all shipments of
5 cigarettes to persons within this state, and shall submit to the department monthly
6 reports of such shipments. All books, records, invoices, and documents required by
7 this section shall be preserved in a form prescribed by the department for not less
8 than four (4) years from the making of the records unless the department authorizes,
9 in writing, the destruction of the records.

10 (12) No person licensed under this section except nonresident wholesalers shall either
11 sell to or purchase from any other such licensee untax-paid cigarettes.

12 (13) (a) Licensed distributors of tobacco products or vapor products shall pay and
13 report the tobacco products tax or vapor products tax on or before the
14 twentieth day of the calendar month following the month in which the
15 possession or title of the tobacco products or vapor products are transferred
16 from the licensed distributor to retailers or consumers in this state, as the case
17 may be.

18 (b) Retailers who have applied for and been granted a retail distributor's license
19 for the privilege of purchasing tobacco products or vapor products from a
20 person who is not a distributor licensed under KRS 138.195(7)(a) shall report
21 and pay the tobacco products tax or vapor products tax on or before the
22 twentieth day of the calendar month following the month in which the
23 products are acquired by the licensed retail distributors.

24 (c) If the distributor or retail distributor timely reports and pays the tax due, the
25 distributor or retail distributor may deduct an amount equal to one percent
26 (1%) of the tax due.

27 (d) The department shall promulgate administrative regulations setting forth the

1 details of the reporting requirements.

2 (14) A tax return shall be filed for each reporting period whether or not tax is due.

3 (15) Any license issued by the department under this section shall not be construed to
4 waive or condone any violation that occurred or may have occurred prior to the
5 issuance of the license and shall not prevent subsequent proceedings against the
6 licensee.

7 (16) (a) The department may deny the issuance of a license under this section if:

8 1. The applicant has made any material false statement on the application
9 for the license; or

10 2. The applicant has violated any provision of KRS 131.600 to 131.630,
11 138.130 to 138.205, 248.754, or 248.756 or any administrative
12 regulations promulgated thereunder.

13 (b) If the department denies the applicant a license under this section, the
14 department shall notify the applicant of the grounds for the denial, and the
15 applicant may request a hearing and appeal the denial as provided in
16 subsection (9) of this section.

17 ➔Section 56. KRS 138.197 is amended to read as follows:

18 The department shall publish and maintain on its Web site an up-to-date list of tobacco
19 products and vapor products distributors licensed under KRS 138.195(7).

20 ➔SECTION 57. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO
21 READ AS FOLLOWS:

22 ~~(1) As used in this section:~~

23 ~~(a) "Administrative adjustment request" means an administrative adjustment~~
24 ~~request filed by a partnership under Section 6227 of the Internal Revenue~~
25 ~~Code;~~

26 ~~(b) "Audited partnership" means a partnership subject to a partnership level~~
27 ~~audit resulting in a federal adjustment;~~