

**COMMONWEALTH OF KENTUCKY FISCAL NOTE STATEMENT
LEGISLATIVE RESEARCH COMMISSION
2022 REGULAR SESSION
CONFIDENTIAL**

MEASURE

2022 BR NUMBER 1625

HOUSE BILL NUMBER 8/PSS 1

TITLE AN ACT relating to revenue measures and declaring an emergency.

SPONSOR Senator Chris McDaniel

FISCAL SUMMARY

STATE FISCAL IMPACT: YES NO UNCERTAIN

OTHER FISCAL STATEMENT(S) THAT MAY APPLY: ACTUARIAL ANALYSIS
 LOCAL MANDATE CORRECTIONS IMPACT HEALTH BENEFIT MANDATE

APPROPRIATION UNIT(S) IMPACTED: _____

FUND(S) IMPACTED: GENERAL ROAD FEDERAL RESTRICTED _____

FISCAL ESTIMATES	2021-2022	2022-2023	2023-2024	ANNUAL IMPACT AT FULL IMPLEMENTATION
REVENUES		(\$134,200,000) GF \$2,200,000 RF	(\$754,100,000) GF \$2,200,000 RF	
EXPENDITURES				
NET EFFECT		(\$134,200,000) GF \$2,200,000 RF	(\$754,100,000) GF \$2,200,000 RF	

() indicates a decrease/negative

PURPOSE OF MEASURE: The purpose of this bill is to reduce the Commonwealth's reliance on taxes related to production and to increase the reliance on taxes related to consumption.

FISCAL EXPLANATION: For **Individual Income Tax (IIT)**, any proposed tax rate reductions hinge on a formulaic calculation based on defined terms of: (1) the "balance in the BRTF at the end of a fiscal year"; (2) "GF appropriations"; (3) "GF moneys"; and the "IIT equivalent". A tax rate reduction will be implemented if the reduction conditions are met, including the balance in the BRTF at the end of a fiscal year shall be equal to or greater than 10% of the GF moneys for that fiscal year and GF moneys at the end of a fiscal year shall be equal to or greater than GF appropriations for that fiscal year plus the IIT equivalent for that fiscal year. If the reduction conditions are met, the department will reduce the current tax rate by five-tenths of one percent (0.5%) Beginning no later than September 1, 2022, the Department, with assistance from the Office of State Budget Director, shall review the reduction conditions as they apply to fiscal year 2020-2021 and make a determination if the reduction conditions have

been met. If the reduction conditions are met, no later than September 5, 2022, the department shall report to the Interim Joint Committee on Appropriations and Revenue whether a tax rate reduction will occur for the taxable year beginning on January 1, 2023. The department shall implement an annual process to review and report future reduction conditions at the same time and in the same manner; however, the department shall not implement an income tax rate reduction without a future action by the General Assembly.

The personal income tax credits for a fiduciary and an estate are eliminated. Changes to the individual income tax result in negative impacts in fiscal year 2022-2023 of \$265.0 million and \$805.5 million in fiscal year 2023-2024.

Sales and Use Tax: The tax base is expanded to include the taxation of new services, including:

Service	Service	Service
Photography and photo finishing service	Private investigation services	Massage services, except when medically necessary
Marketing services	Process server services	Cosmetic surgery services
Telemarketing services	Repossession of tangible personal property services	Body modification services
Public opinion and research polling services	Personal background check services	Testing services
Lobbying services	Parking services	Interior decorating and design services
Executive employee recruitment services	Road and travel services provided by automobile clubs defined in KRS 281.010	Household moving services
Web site design and development services	Condominium time-share exchange services	Specialized design services including the design of clothing, costumes, fashion, furs, jewelry, shoes, textiles, parade floats, and lighting
Web site hosting services	Rental of space for meetings, conventions, short-term business uses, entertainment events, weddings, banquets, parties, and other short-term social events	Lapidary services
Facsimile transmission services	Social event planning and coordination services	Labor and services to repair or maintain commercial refrigeration equipment and systems when no tangible personal property is sold in that transaction including service calls and trip charges
Private mailroom services	Leisure, recreational, and athletic instructional services	Labor to repair or alter apparel, footwear, watches, or jewelry when no tangible personal property is sold in that transaction
Bodyguard services	Recreational camp tuition and fees	Prewritten computer software access services
Residential and nonresidential security system monitoring services	Personal fitness training services	

Several additional amendments are made to the tax:

- Any event coordinator of a festival or similar event shall provide the Department with a list of vendors selling at the event any tangible property, digital property, or services.
- The definition of “drug” is amended to include drugs for certain livestock and drugs and over-the-counter drugs that are purchased by a person regularly engaged in the business of farming are exempted from tax.
- The definition of extended warranty services is expanded to include real property.
- The current exemption for admission to historical sites is removed.
- The current exemption for residential utilities will only apply to the resident’s place of domicile and will not apply to additional residential property owned.
- The threshold for exempting sales of services is maintained at \$6,000 during a calendar year.
- Contracts executed prior to the date of introduction of the bill will remain in force until expiration or renewal.

Changes to the Sales and Use Tax result in a positive impact to the General Fund of \$29.8 million in fiscal year 2022-2023 and a positive impact of \$80.3 million in fiscal year 2023-2024.

Car and Ride Sharing Tax: A new transportation certificate is established for peer-to-peer car sharing, and a new tax is imposed for the privilege of providing a motor vehicle for sharing or for rent, with or without a driver, within the Commonwealth. The tax rate is 6 percent of gross receipts and the tax will be administered and collected by the Department of Revenue, with receipts deposited in the General Fund. This will have a positive impact to the General Fund of \$7.1 million in fiscal year 2022-2023 and \$18.4 million in fiscal year 2023-2024.

Transient Room Taxes: Definitional terms and the tax base for the local and state-wide transient room taxes are conformed to the sales and use tax base. There is no impact to the General Fund.

Electric Powered Vehicle Tax: A new excise tax of three cents per kilowatt hour on electric vehicle power distributed in this state by an electric vehicle power dealer. The tax will be administered and collected by the Department of Revenue, with receipts deposited in the Road Fund having a positive impact of \$300,000 in fiscal year 2022-2023 and a positive impact of \$800,000 in fiscal year 2023-2024.

Electric Vehicle Ownership Fee: A fee of \$120 for electric vehicles, \$60 for hybrid vehicles, and \$70 for electric motorcycles will be collected by the county clerk at the time of registration or renewal of registration. Estimated receipts from the electric vehicle ownership fee are \$1.7 million in fiscal year 2022-2023 and \$3.7 million in fiscal year 2023-2024. The tax receipts from the fee will be deposited 50% to the General Fund and 50% to the Road Fund.

Tax Amnesty: The Department of Revenue and the Finance and Administration Cabinet are authorized to procure the services necessary to implement the tax amnesty program. The program will be held for a period of 60 days, beginning on October 1, 2022, and ending on November 29, 2022. Included in this tax amnesty program are federal taxes, penalties, fees, or

interest referred to the department from the federal government for collection purposes. Amnesty will be allowed for all state penalties and one-half of interest due if a taxpayer:

1. Files all delinquent returns;
2. Pays in full all taxes due and one-half of the interest due;
3. Pays in full all federal taxes, penalties, fees, and interest due; and
4. Agrees to file all tax returns when due and make all tax payments when due for 3 years following the date amnesty is granted to the taxpayer.

Excluded from the tax amnesty program are property taxes levied on real property, motor vehicles and motor boats, and other personal property that are payable to local officials.

If the Department is unable to secure a successful bid for the procurement of services, the Department shall implement a tax amnesty program during a 60-day period similar to the required period, except that the 60-day period shall be held during the calendar year 2023.

The fiscal impact of the tax amnesty program assumes that the current conditions and situations are similar to the conditions and situations during the 2012 tax amnesty program, including the amount of accounts receivable to be collected, the behavioral response by taxpayers applying for amnesty, the distribution of the tax paid between the General Fund and the Road Fund, the distribution of moneys to local governments, and the amount of accelerated collections that would have eventually been paid without the tax amnesty program. Additionally, this impact assumes that the Department is able to procure the appropriate services and the program is conducted in 2022. A positive impact to both the General Fund and the Road Fund would occur in fiscal year 2022-2023 in the amounts of \$100.6 million and \$1.1 million, respectively. Negative impacts to both the General Fund and Road Fund in fiscal year 2023-2024 in the amounts of \$41.7 million and \$500,000, respectively. The net positive impact related to the tax amnesty program is \$58.9 million to the General Fund and \$600,000 to the Road Fund.

Coal Severance: A taxpayer engaged in severing or processing coal within this state that has paid the tax on that coal severed or processed may apply for a refund if the coal is transported directly to a market outside of North America. This provision is extended until July 1, 2024.

Update to the Internal Revenue Code Reference Date: Kentucky's income tax statutes are currently tied to the Internal Revenue Code in effect on December 31, 2018. The fiscal impact to the update is negative but indeterminable. Staff continues to research the actions by Congress since 2018 to determine the final impact.

Insurance Premiums Tax: The estimated tax payments for insurance premiums tax are reinstated.

Property Tax:

- Definitions are included for manufactured home, modular home, and prefabricated home, and the definition for mobile home is amended. All prefabricated homes held for sale in a manufacturer's or retailer's inventory are exempted from tax.
- The notices provided by a third-party purchaser of a certificate of delinquency shall be sent by certified mail with proof of mailing. Additionally, a copy of each notice shall be

sent to each mortgagee who holds a mortgage on the property that is the subject of the certificate of delinquency.

Tax Credits: The certified rehabilitation tax credit limits for taxpayers are increased to \$120,000 for owner-occupied residential property and \$10 million for all other property that qualifies for the tax credit.

A new tax credit is established for 100% of the costs related to qualifying decontamination property is allowed for taxable years beginning on or after January 1, 2022, but before January 1, 2032. The total credit awarded per qualifying decontamination property shall not exceed \$30 million and the reasonably anticipated total qualifying expenditures associated with the qualifying decontamination property must equal or exceed \$10 million.

Administrative Provisions: If a taxpayer files a timely protest related to certain property tax assessments and does not receive a resolution within one year, the department shall immediately issue a final ruling that accepts the taxpayer's grounds of the property.

Other Statutory and Budgetary Provisions: Various other statutory and noncodified administrative provisions related to budgetary procedures and interagency fees are included with no additional fiscal impact.

DATA SOURCE(S): _____

PREPARER: Jennifer Hays **NOTE NUMBER:** 213 **REVIEW:** JAB **DATE:** 3/29/2022

