TEXT OF FEDERAL CONSTITUTIONAL PROVISIONS

Section 1 of the 14th Amendment of the US Constitution provides:

nor (shall any State] deny to any person within its jurisdiction the equal protection of the laws...

Article IV, Section 2 of the US Constitution provides:

The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the Several States

Section 1 of the 14th Amendment of the US Constitution provides:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States

Article I, Section 5, Clause 3 of the US Constitution provides:

The Congress shall have Power ... To regulate Commerce with foreign Nations and among the several states and with the Indian Tribes

Section 1 of the 14th Amendment of the US Constitution provides:

nor shall any State deprive any person of life, liberty, or property, without due process of law

Article I, Section 10, Clause 2 of the US Constitution provides:

No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing its inspection Laws; and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Control of the Congress.

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STATE AND LOCAL TAX

HANDOUT I
Section 171 of the Kentucky Constitution

171 State tax to be levied - Taxes to be levied and collected for public purposes only and by general laws, and to be uniform within classes - Classification of property for taxation - Bonds exempt -- Referendum on act classifying property.

The General Assembly shall provide by law an annual tax, which, with other resources, shall be sufficient to defray the estimated expenses of the Commonwealth for each fiscal year. Taxes shall be levied and collected for public purposes only and shall be uniform upon all property of the same class subject to taxation within the territorial limits of the authority levying the tax; and all taxes shall be levied and collected by general laws.

The General Assembly shall have power to divide property into classes and to determine what class or classes of property shall be subject to local taxation. Bonds of the state and of counties, municipalities, taxing and school districts shall not be subject to taxation.

Any law passed or enacted by the General Assembly pursuant to the provisions of or under this amendment, or amended section of the Constitution, classifying property and providing a lower rate of taxation on personal property, tangible or intangible, than upon real estate shall be subject to the referendum power of the people, which is hereby declared to exist to apply only to this section, or amended section. The referendum may be demanded by the people against one or more items, sections, or parts of any act enacted pursuant to or under the power granted by this amendment, or amended section. The referendum petition shall be filed with the Secretary of State not more than four months after the final adjournment of the Legislative Assembly which passed the bill on which the referendum is demanded. The veto power of the Governor shall not extend to measures referred to the people under this section. All elections on measures referred to the people under this act shall be at the regular general election, except when the Legislative Assembly shall order a special election. Any measure referred to the people shall take effect and become a law when approved by the majority of the votes cast thereon, and not otherwise. The whole number of votes cast for the candidates for Governor at the regular election, last preceding the filing of any petition, shall be the basis upon which the legal voters necessary to sign such petition shall be counted. The power of the referendum shall be ordered

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STATE AND LOCAL TAX

HANDOUT 2

Section 59 of the Kentucky Constitution

59 Local and special legislation. The General Assembly shall not pass local or special acts concerning any of the following subjects, or for any of the following purposes, namely:
Fifteenth: To authorize or to regulate the levy, the assessment or the collection of taxes, or to give any indulgence or discharge to any assessor or collector of taxes, or to his sureties.

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State AND LOCAL TAX

HANDOUT V

KRS 141.010 Definitions for chapter.

(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 [depreciation methods] 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;

~) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection -(12) of this section minus the deduction allowed by KRS 141.0202 [deduction of leasehold interest of property contributed as living quarters for homeless persons] and 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:

(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;

~) "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~). Property and payroll are deemed to be entirely within

1 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

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KRS 141.120 Division of income of interstate business for tax purposes - apportionment

(1) As used in this section, unless the context requires otherwise:

(a) "Business income" means income arising from transactions and activity in the regular course of a trade or business of the taxpayer and includes income from tangible and intangible property if the acquisition, management, or disposition of the property constitutes integral parts of the taxpayer's regular trade or business operations;

~) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is managed;

(c) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid or payable to employees for personal services;

(d) "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, investment company, or any type of insurance company;

(e) "Nonbusiness income" means all income other than business income;

(f) "Public service company" means any business entity subject to taxation under KRS 136.120;
(g) "Sales" means all gross receipts of the taxpayer not allocated under subsections (3) through (7) of this section;

(h) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(2) Any corporation which is required by KRS 141.010(14)(1') to allocate and apportion its net income shall allocate and apportion its net income as provided in this section.

(3) Rents and royalties from real, intangible or tangible personal property capital gains and losses, interest, or patent or copyright royalties, to the extent that they constitute Nonbusiness income, shall be allocated as provided in subsections (4) through (7) of this section.

(4) (a) Net rents and royalties from real property located in this state are allocable to this state.

(b) Net rents and royalties from tangible personal property are allocable to this state if and to the extent that the property is utilized in this state; or in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(c) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, the tangible personalty is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(d) Net rents and royalties from intangible personal property located in this state are allocable to this state. For purposes of this section, royalties from property leased in Kentucky shall be considered as royalties from intangible personal property.

(5) (a) Capital gains and losses from sales or other dispositions of real property located in this state are allocable to this state.

(b) Capital gains and losses from sales or other dispositions of tangible personal property are allocable to this state if the property had a situs in this state at the time of the sale, or the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(c) Capital gains and losses from sales or other dispositions of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

(6) Interest is allocable to this state if the taxpayer's commercial domicile is in this state.

(7) (a) Patent and copyright royalties are allocable to this state if and to the extent that the patent or copyright is
utilized by the payer in this state; or if and to the extent that the patent or copyright is utilized by the payer in a state in
which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

~) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other
processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from
patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of

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utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(c) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of
receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect
states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

(8) Except as provided for in subsection (9) of this section, all business income shall be apportioned to this state by
multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the
sales factor, and the denominator of which is three (3); provided, however, that effective with taxable years beginning
after July 31, 1985, in lieu of the equally weighted three (3) factor apportionment fraction based on property, payroll,
and sales, an apportionment fraction composed of a sales factor representing fifty percent (50%) of the fraction, a
property factor representing twenty-five percent (25%) of the fraction, and a payroll factor representing twenty-five
percent (25%) of the fraction shall be used.

(a) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible
personal property owned or rented and used in this state during the tax period and the denominator of which is the
average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period;
provided, however, that property which has been certified as a pollution control facility as defined in KRS 224.01-300
shall be excluded from the property factor.

1. Property owned by the taxpayer is valued at its original cost. If the original cost of any property is not determinable
or is nominal or zero (0) such property shall be valued by the cabinet under regulations promulgated by the cabinet.
Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the
annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals, provided
that such rental and such subrentals are reasonable. If the cabinet determines that the annual rental or subrental rate is
unreasonable, or if a nominal or zero (0) rate is charged, the cabinet may determine and apply such rental rate as will
reasonably reflect the value of the property rented by the taxpayer.

2. The average value of property shall be determined by averaging the values at the beginning and ending of the tax
period but the cabinet may require the averaging of monthly values during the tax period if reasonably required to
reflect properly the average value of the taxpayer's property.

~) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in this state during the
tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid or payable
everywhere during the tax period. Compensation is paid or payable in this state if:
1. The individual's service is performed entirely within the state; or

2. The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

3. Some of the service is performed in the state and the base of operations or, if

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there is no base of operations, the place from which the service is directed or controlled is in the state, or the base of operations or the place from which the

service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(c) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period. Sales of tangible personal property are in this state if:

1. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within this state regardless of the f.o.b. point or other conditions of the sale; or

2. The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government.

3. Sales, other than sales of tangible personal property, are in this state if the income-producing activity is performed in this state; or the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(9) (a) If the allocation and apportionment provisions of this section do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the cabinet may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

I. Separate accounting;

2. The exclusion of any one (1) or more of the factors;

3. The inclusion of one (1) or more additional factors which will fairly represent the taxpayer's business activity in this state; or

4. The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.
(b) A taxpayer may elect the allocation and apportionment methods for the taxpayer's business income provided for in subparagraphs 1. and 2. of this paragraph. The election, if made, shall be irrevocable for a period of five years.

1. All business income derived directly or indirectly from the sale of management, distribution, or administration services to or on behalf of regulated investment companies, as defined under the Internal Revenue Code of 1986, as amended, including trustees, and sponsors or participants of employee benefit plans which have accounts in a regulated investment company, shall be apportioned to this state only to the extent that shareholders of the investment company are domiciled in this state as follows:

* * *

2. All business income derived directly or indirectly from the sale of securities brokerage services by a business which operates within the boundaries of any area of the Commonwealth, which on June 30, 1992, was designated as a Kentucky Enterprise Zone, as defined in KRS 154.655(2), shall be apportioned to this state only to the extent that customers of the securities brokerage firm are domiciled in this state. The portion of business income apportioned to Kentucky shall be determined by multiplying the total business income from the sale of these services by a fraction determined in the following manner:

* * *

(10) Public service companies and financial organizations required by KRS 141.010 (14) (b) to allocate and apportion net income shall allocate and apportion such income as follows:

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_A photocopy of 103 KAR 16:10 through 103 KAR 16:120 in original could not be scanned._