

2018 Legislative Session – KY Tax Changes

The 2018 KY General Assembly passed legislation making changes to Kentucky’s tax code. HB 487, all 417 pages of it, was a bit of a surprise as it was passed originally as HB 366 and ultimately vetoed by the Governor. Although the legislature overrode the veto, they recreated most of House bill 366 in a substitute bill contained in HB 487 along with some important corrections to provisions of HB 366. The bill also added new provisions that were not discussed or vetted with interests groups.

Provisions of HB 487 include:

- A decrease in the individual and corporate income tax to a flat rate of 5%
- Adoption of the federal tax code changes passed in December
- A sales tax exemption on the labor to repair, replace and maintain manufacturing equipment
- Adoption of a single-factor apportionment formula
- Combined returns based on a unitary group for multi-state corporations
- Phase out of the inventory tax using a state credit
- Limiting change in the energy exemption for some manufacturers by changing the calculation of the cost of production (little is known about the impact of this change)

The table below provides a summary of specific sections of the bill, the page numbers and a fiscal analysis for provisions of most interest to manufacturers. We are providing this to assist you in identifying sections that could impact your company. Additionally, you should have your tax experts review these changes. Information is provided by the Legislative Research Commission. HB 487 can be viewed [HERE](#)

2018 HB 487	SECTION	PAGE	2019	2020
Sales and Use Tax	36-51	101-140	+192.5	+238.0
Amend the sales tax definitions to include “directly used in the manufacturing or industrial processing process,” “extended warranty services,” “industrial processing,” “marketplace facilitator,” “marketplace retailer,” “prewritten computer software,” “referrer,” and “remote retailer” Amend definition of “gross receipts” to include charges for labor	36-41	101		

Clarify the definition of “prewritten computer software”				
Impose sales tax on labor and services for certain repair, installation, maintenance through the amendment to “gross receipts”; landscaping services; janitorial services; pet care services; industrial laundry services; dry cleaning and non-coin operated laundry services; pet grooming and boarding services; linen supply; limousine services; non-medical diet and weight reducing services; indoor skin tanning services; small animal vet services, and extended warranty services Impose sales tax on certain admissions, including but not limited to bowling centers, skating rinks, health spas, swimming pools, tennis courts, weight training facilities, fitness and recreational sports centers, and golf courses	36-41	118		
Impose sales and use tax on property certified as a pollution control facility Clarify the cost of production related to energy or energy-producing fuels used	44	125		
Income Taxes	52-123	140-399		
Individual Income Tax			-104.4	-101.4
Corporation Income Tax			-29.8	-50.2
Income tax definitions for taxable years beginning prior to January 1, 2018	52	140		
Income tax definitions for taxable years beginning on or after January 1, 2018 Update to the Internal Revenue Code in effect on December 31, 2017 Disallow the deduction for domestic production activities to conform to the Internal Revenue Code Include a definition for part-time resident	53	157		
Provide that deductions are limited to amounts directly or indirectly allocable to income subject to tax and that the same item shall not be deducted twice	54	162		
Provide the calculation for adjusted gross income and net income, in the case of taxpayers other than corporations	55	163		

Amend adjusted gross income to allow a pension exclusion of \$31,110 for taxable years beginning on or after January 1, 2018				
Amend net income to prohibit the deduction of investment interest, taxes, certain losses, medical care expenses, moving expenses, and other miscellaneous deductions				
Amend net income to disallow the 20% deduction related to pass-through income to individuals under Section 199A of the Internal Revenue Code				
Provide the calculation for gross income and net income, in the case of corporations	56	167		
Impose a flat rate of 5% for individuals	57	169		
Eliminate the \$10 personal credit for the taxpayer, spouse, and each dependent				
Clarify the provisions related to a part-year resident				
Impose a flat rate of 5% for corporations	58	177		
Separate the apportionment provisions for taxable years beginning prior to January 1, 2018	59	186		
Allow a provider of communication services, cable services, or internet access to continue to use the three-factor apportionment formula				
Provide a single sales factor and a market-based sourcing of receipts for apportioning income for taxable years beginning on or after January 1, 2018	60	195		
Conforming statutes for income tax	63-94			
Provide alternative apportionment provisions for a provider of communication services	78	258		
<u>KY Industrial Revitalization Act</u> - Continue the acceptance of applications and approvals for revitalization agreements but require reporting to LRC by Revenue and the Authority by July 1, 2019	95	328		
<u>KY Angel Investor Tax Act</u> - Provide that no more than \$40 million shall be awarded in tax credits in total for all years prior to December 31, 2020 Allow \$3 million in each calendar year to be awarded beginning on or after January 1, 2021	98	334		

Suspend applications on or after January 1, 2019, but resume approving applications on or after January 1, 2021				
<u>KY Investment Fund Act</u> – Provide that no more than \$40 million shall be awarded in tax credits in total for all years prior to December 21, 2020 Allow \$3 million in each calendar year to be awarded beginning on or after January 1, 2021 Suspend applications on or after January 1, 2019, but resume approving applications on or after January 1, 2021	99	336		
Allow an income tax credit in an amount equal to the property tax timely paid for business inventory	115	372		
Add the definition of “tax return preparer” to provide for mandatory corporation e-file provisions	116	373		
Require electronic filing for employers that issue more than 25 withholding statements Require electronic filing for corporations or pass-through entities with gross receipts of \$1 million or more for taxable years beginning on or after January 1, 2019	117	376		
Define the term “state” for purposes of the individual credit for taxes paid to another state	118	377		
Provide combined returns based on a unitary business group for taxable years beginning prior to January 1, 2019, unless the group elects to file a consolidated return based on the same group that files for federal income tax purposes	119 120	378 380		
Exempt gross receipts derived from charges for labor or services to apply, install, repair, or maintain tangible personal property directly used in manufacturing or industrial processing	121	390		
Clarify that computer software other than prewritten computer software is exempt from property tax	122	398		
Conform the net operating loss deduction to the new combined/consolidated filing method	123	398		

