



Care to Predict What Happens?

Kentucky's New Prediction Markets Tax

May 01, 2026

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In the recently concluded 2026 Regular Session of Kentucky's General Assembly, there was significant activity concerning prediction markets like Kalshi and Polymarket, all with potential serious economic impact. Specifically, House Bills [757](#), [869](#) and [904](#) all addressed prediction market contracts in one way or another.

Via essentially a double-barrel blast against prediction markets, Kentucky has enacted what is, at its end, a 14.25% transactional-based excise tax on prediction market contracts. But in doing so, it has not "legalized" nor "regulated" this space. Interesting.

The tax created by HB 757 is, on its face, extremely broad. Yes, it is written to capture any prediction contract purchased within the state border of Kentucky, *BUT*, as written, it subjects to tax *any* prediction contract involving a Kentucky resident occurring anywhere — no border limitation language was enacted addressing transactions involving Kentucky residents.

This provision alone raises significant jurisdictional and constitutional issues, obviously, given that prediction contracts purchased by, for example, a Kentucky resident while traveling in California would be subject to this tax as well. So, not only is Kentucky the [first state in the country to tax prediction market contracts](#), but the tax as presently written is virtually unprecedented in its grasp concerning out-of-state transactions involving a Kentucky resident.

The 14.25% tax rate is equivalent to that which is levied upon sports betting transactions in Kentucky; however, the "tax base" is somewhat different in specificity. The tax is imposed on the "transaction fees" of a "Prediction Market Operator," and is not subject to any further deduction nor offset. By creating a monthly tax compliance structure akin to sales and use tax, HB 757 also imposes personal liability on the market platform operator, which is defined as a "Prediction Market Operator." "Transaction fee" means

and includes the fee charged by a Prediction Market Operator to complete the involved contract transaction, as well as the amount paid by a consumer to purchase an event contract from a Prediction Market Operator.

Excepted from the transactions subject to the 14.25% transaction tax are any contract of sale of a commodity or an option thereon, including any swap or derivative transaction based on agricultural commodities, with specific reference made to the Federal Commodity Exchange Act. Further, note that a prediction market may include a board of trade designated as a contract market by the Commodities Future Trading Commission.

Personal liability, again similar to sales and use taxes and other excise taxes imposed by Kentucky, is imposed and that liability specifically attaches to corporate officer-type positions, with such liability being personal and individual liability, both joint and several, for the transaction tax. However, there is no personal or individual liability for the tax if the involved person had “no authority to collect, truthfully account for, or pay over any tax at any time the taxes imposed become or became due.” Note the use of the word “*collect*,” suggesting that the Kentucky Legislature believes that a Prediction Market Operator maker may *collect* such taxes from the parties to the contract, assuming the contract is subject to tax by Kentucky to begin with. And that is a wholly different concern and issue.

As is not uncommon in Kentucky legislation, there was some drama associated with HB 757. It passed overwhelmingly in the Kentucky House of Representatives and Senate, but Governor Andy Beshear vetoed its provisions. When the General Assembly returned after a break but prior to adjourning for this Session, HB 757 was overridden by the House and the Senate, again, overwhelmingly.

HB 757 carries an effective date of January 1, 2027. Interesting is that HB 757, as initially passed, contained the following language: “It is the purpose and intent of the General Assembly to levy taxes on persons engaged in the operations of a Prediction Market. It is not the intent of the General Assembly to legalize these activities.” But when the General Assembly returned after its short break and again before it adjourned, it enacted HB 869, a sort of tax cleanup bill with

a multitude of various tax-related provisions addressed therein. Kentucky's prediction market tax was amended by HB 869, and the above-quoted text as to purpose and intent was specifically stricken by the General Assembly in HB 869. No public dialogue as to the reason therefor has been located. I wonder why?

As noted, another large piece of legislation which worked through the General Assembly involved prediction markets and other independent gaming-related changes. HB 904 in sum bars any business regulated by the Kentucky Racing and Gaming Corporation from engaging, directly or indirectly through other entities, in prediction market-related transactions. HB 904 also changed the minimum age for legal sports betting in Kentucky from 18 years to 21 years of age. The General Assembly termed HB 904 the "Wagering Consumer Protection Act."

With roughly seven months before its January 1, 2027, effective date, it will be quite interesting to see how the industry and other state and federal regulators react to this new frontier of taxation. Our [state and local tax team](#) will be watching intently to see how Kentucky's prediction market tax plays out in practicality and whether other states follow suit with similar legislation. You can find those future updates on our [Tax Law Defined® Blog](#).

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