

COMMONWEALTH OF KENTUCKY
BOONE CIRCUIT COURT – 54th Judicial Circuit

CASE NO: 25-CI-_____

JILL STAHL HUSTON

2085 Woodsedge Ct.
Hebron, KY 41048

PLAINTIFFS

AND

STACIE EARL

1174 Crosspointe Dr.
Hebron, KY 41048

AND

KAREN STRAYER

150 Saddlebrook Ln
Florence, KY 41042

AND

MONEY METALS EXCHANGE LLC

PO Box 2599

Eagle, ID 83616

*On behalf of themselves and all
others similarly situated*

v.

ANDREW BESHEAR, *in his
official capacity*¹

700 Capitol Avenue, Suite 100
Frankfort, Kentucky 40601

AND

HOLLY JOHNSON, *in her
official capacity*

¹ While 25 RS HB 2 permits individual liability, such liability is conditioned on the official being involved in posting notice about continued collection of taxes on gold or silver bullion or currency after the effective date of 25 RS HB 2. As noted herein, it appears that the notice was removed the week of March 24, 2025 prior to the legislation taking effect; however, if an instruction is republished, Plaintiffs would also include Defendants Beshear, Johnson, and Miller in their individual capacities for personal liability and for liquidated damages as provided in the legislation.

200 Mero Street, 5th Floor
Frankfort, Kentucky 40622

AND

TOM MILLER, *in his*
official capacity
501 High Street, Station 1
Frankfort, KY 40601

AND

KENTUCKY DEPARTMENT OF REVENUE
c/o Commissioner Tom Miller
501 High Street, Station 1
Frankfort, KY 40601

AND

COMMONWEALTH OF KENTUCKY
c/o Attorney General Russell Coleman
700 Capital Avenue, Suite 118
Frankfort, Kentucky 40601-3449

DEFENDANTS

PLAINTIFFS' CLASS ACTION COMPLAINT

Plaintiffs, through Counsel, for their Class Action Complaint, state and allege as follows:

PARTIES

1. Plaintiff Jill Stahl Huston ("Huston") is a resident of Boone County, Kentucky, who, on March 17, 2025, purchased four ounces of silver bullion for \$45.00 per ounce at Coins + LLC, which has its address at 8077 B Connector Drive, in Florence, Boone, County, Kentucky. She was charged \$10.80 in sales tax for that purchase. She has made other purchases of gold or silver bullion as well, and will make additional purchases in the future including, explicitly, on March 28, 2025. She sues on her own behalf, and on behalf of a class of similarly situated persons for purposes of seeking a refund of taxes paid.

2. Plaintiff Stacie Earl (“Earl”) is a resident of Boone County, Kentucky, who, on March 17, 2025, purchased two ounces of silver bullion for \$45.00 per ounce at Coins + LLC, which has its address at 8077 B Connector Drive, in Florence, Boone, County, Kentucky. She was charged \$5.40 in sales tax for that purchase. She has made other purchases of gold or silver bullion as well, and will make additional purchases in the future including, explicitly, on March 28, 2025. She sues on her own behalf, and on behalf of a class of similarly situated persons for purposes of seeking a refund of taxes paid.
3. Plaintiff Karen Strayer (“Strayer”) is a resident of Boone County, Kentucky, who, on March 17, 2025, purchased four ounces of silver bullion for \$45.00 per ounce at Coins + LLC, which has its address at 8077 B Connector Drive, in Florence, Boone, County, Kentucky. She was charged \$10.80 in sales tax for that purchase. She has made other purchases of gold or silver bullion as well, and will make additional purchases in the future including, explicitly, on March 28, 2025. She sues on her own behalf, and on behalf of a class of similarly situated persons for purposes of seeking a refund of taxes paid.
4. Money Metals Exchange LLC (“MME”) is an Idaho limited liability company and is one of the largest online dealers of gold and silver bullion or currency in the United States. From August 1, 2024, it conducted sales and charged its customers, who had the gold or silver bullion or currency delivered into Kentucky, sales and use taxes, which it then remitted to the Commonwealth of Kentucky. Since August 1, 2024 to the date of this complaint, it has remitted more than \$55,000 in Kentucky sales and use taxes collected from more than 800 customers. After the passage of 25 RS HB 2 over the governor’s veto, MME has elected to cease collecting and remitting sales and use tax to Kentucky

for gold or silver bullion or currency purchases made on or after March 28, 2025. It wishes to assist in refunding its Kentucky customers who were charged sales or use taxes for purchases of gold or silver bullion or currency on or after August 1, 2024, and sues on its own behalf, and for all other dealers similarly situated, and on behalf of its customers.

5. Further, MME reasonably fears harm from enforcement from Defendants for the failure to collect or remit sales or use taxes for gold or silver bullion or currency sales on or after March 28, 2025, and thus requires declaratory and injunctive relief against any enforcement actions by Defendants. Kentucky law has mechanisms to hold the company liable for such sales or use taxes, to the extent that the tax is lawful in light of 24 RS HB 8 and 25 RS HB 2. Additionally, pursuant to 139.185, the corporate officers of MME could themselves be held jointly and severally liable for the company's failure to collect and remit sales taxes, and Kentucky claims the authority to prosecute and imprison such individuals.
6. Collectively Plaintiffs Huston, Earl, Strayer, and MME, are denoted as "Plaintiffs."
7. Defendant, Andrew Beshear ("Beshear"), is the Governor of the Commonwealth of Kentucky. He is also sued in his official capacity for such declaratory or injunctive relief and as may be necessary to effect any orders of the court.
8. Defendant, Holly Johnson ("Johnson"), is the Secretary of the Finance and Administration Cabinet of the Commonwealth of Kentucky. She is sued in her official capacity for such declaratory or injunctive relief and as may be necessary to effect any orders of the court.

9. Defendant, Tom Miller (“Miller”), is the Commissioner of the Department of Revenue of the Commonwealth of Kentucky. He is sued in his official capacity for such declaratory or injunctive relief and as may be necessary to effect any orders of the court.
10. Defendant, the Kentucky Department of Revenue (“DOR”), is that department of Kentucky state government that, among other things, is responsible for collection of sales and use taxes.
11. Defendant, the Commonwealth of Kentucky (“Commonwealth”), is the state government.

JURISDICTION AND VENUE

12. Jurisdiction over this matter is conferred pursuant to Ky. Const. § 112, KRS 23A.010, and 25 RS HB 2.
13. Venue is proper under 25 RS HB 2, Section 1, (3), as the individual Plaintiffs all reside in Boone County, Kentucky, and is further proper because Boone County was where the Plaintiffs’ currency transactions occurred, and, for MME, it remitted taxes to the Commonwealth for one or more customers who reside in Boone County, Kentucky, in the relevant time period.

FACTUAL BACKGROUND

14. On March 28, 2024, the Kentucky General Assembly passed 24 Regular Session House Bill 8 (“HB8”), and delivered it to the Governor.²
15. HB8, a revenue bill containing almost two-hundred pages of revenue-related matters, had the vast majority of the bill (in terms of pages and sections) related to revenue measures, as opposed to appropriations or expenditures, but, as relevant here, Sections 33 and 34 exempted from sales and use taxation “currency” and “bullion.”

² <https://apps.legislature.ky.gov/record/24rs/hb8.html>

16. HB8 defined “currency” as “a coin or currency made of gold, silver, platinum, palladium, or other metal or paper money that is or has been used as legal tender and is sold based on its value as a collectible item rather than the value as a medium of exchange; and [d]oes not include a coin or currency that has been incorporated into jewelry.”
17. HB8 defined “bullion” as “bars, ingots, or coins, which are: i. [m]ade of gold, silver, platinum, palladium, or a combination of these metals; ii. [v]alued based on the content of the metal and not its form; and iii. [u]sed, or have been used, as a medium of exchange, security, or commodity by any state, the United States government, or a foreign nation; and [d]oes not include medallions or coins that are incorporated into a pendant or other jewelry.”
18. The bill, exempting gold and silver currency and bullion from taxation, is a revenue bill, and not an appropriation bill, because it does not spend money, but instead deals with raising of revenue and issues of taxation.
19. Governor Beshear purported to issue a line-item veto over Sections 33 and 34, even though those sections were revenue provisions, and not an appropriations bill.
20. Ky. Const. § 88 is the provision of Kentucky’s Constitution that discusses Governor’s vetoes, and it generally requires that the Governor veto the entirety of a bill. However, it makes an exception for appropriation bills, and provides that “The Governor shall have the power to disapprove any part or parts of appropriation bills embracing distinct items, and the part or parts disapproved shall not become a law unless reconsidered and passed, as in case of a bill.”

21. The Kentucky House thus ruled the Governor's vetoes³ invalid, and the Kentucky Secretary of State enrolled 24 RS HB8, without the Governor's signature.
22. 24 RS HB 8, in its entirety, thus became law on August 1, 2024. Ky. Const. § 55.
23. On May 20, 2024, the Kentucky Attorney General issued OAG Opinion 24-06.⁴ That Opinion, in relevant part, determined that 24 RS HB 8 was not an appropriation bill, but a revenue bill, and that the Governor's purported partial veto was a nullity.
24. Defendant Beshear then directed the DOR, and Defendants Johnson and Miller, to continue to collect sales and use taxes from gold and silver bullion or currency purchases, which they have each done, at least through March 24, 2025. Further, the DOR, for its part, published this fact on its website, which continues through March 24, 2025.
25. During the week of March 24, 2025, it appears that the DOR removed its notice about collection of sales and use tax for bullion and currency; nevertheless retailers across the state continue to collect and remit sales and use taxes on gold or silver bullion or currency because of mixed messaging from the Defendants.
26. On March 27, 2025, the Kentucky General Assembly, over the Governor's veto, enacted 25 RS HB 2.⁵ That bill provided for an express cause of action for a refund of taxes collected for gold and silver bullion or currency from August 1, 2024 onward, including a provision for class action treatment, waived governmental and sovereign immunity, and provided certain other relief.

³ The Governor also purported to veto a tax amnesty program as part of 24 RS HB 8.

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<https://www.ag.ky.gov/Resources/Opinions/Opinions/Opinion%20of%20the%20Attorney%20General%2024-06.pdf> (last accessed 3/17/2025).

⁵ <https://apps.legislature.ky.gov/record/25rs/hb2.html> (last accessed 3/17/2025).

CLASS ALLEGATIONS

27. Plaintiffs reincorporate the preceding paragraphs as if fully written herein.
28. Defendants have, collectively, since August 1, 2024, collected close to seven hundred thousand dollars in sales and/or use taxes to date from gold and/or silver bullion or currency, and approximately one million dollars per year,⁶ and taken by retailers and dealers from more than 10,000 Kentucky consumers at the register.
29. Plaintiffs seek certification of a class (the “Customer Class”), defined as “any person or entity who purchased gold or silver ‘currency’⁷ or ‘bullion,’⁸ on or after August 1, 2024, for whom sales or use tax was charged for the purchase and remitted thereafter to the Commonwealth.” Excepted from the class include the Court and its staff.
30. Plaintiffs seek certification of a class (the “Dealer Class”), defined as “any retailer or dealer who charged its customers, and collected sales or use tax for purchases of gold or silver ‘currency’⁹ or ‘bullion,’¹⁰ on or after August 1, 2024, which was then remitted

⁶ This figure is taken from the fiscal note associated with 24 RS HB 8:

<https://apps.legislature.ky.gov/recorddocuments/note/24RS/hb8/HCS1FN.pdf> (last accessed 3/17/2025).

⁷ “Currency” is defined as “a coin or currency made of gold, silver, platinum, palladium, or other metal or paper money that is or has been used as legal tender and is sold based on its value as a collectible item rather than the value as a medium of exchange; and [d]oes not include a coin or currency that has been incorporated into jewelry.”

⁸ “Currency” is defined as “bars, ingots, or coins, which are: i. [m]ade of gold, silver, platinum, palladium, or a combination of these metals; ii. [v]alued based on the content of the metal and not its form; and iii. [u]sed, or have been used, as a medium of exchange, security, or commodity by any state, the United States government, or a foreign nation; and [d]oes not include medallions or coins that are incorporated into a pendant or other jewelry.”

⁹ “Currency” is defined as “a coin or currency made of gold, silver, platinum, palladium, or other metal or paper money that is or has been used as legal tender and is sold based on its value as a collectible item rather than the value as a medium of exchange; and [d]oes not include a coin or currency that has been incorporated into jewelry.”

¹⁰ “Currency” is defined as “bars, ingots, or coins, which are: i. [m]ade of gold, silver, platinum, palladium, or a combination of these metals; ii. [v]alued based on the content of the metal and not its form; and iii. [u]sed, or have been used, as a medium of exchange, security, or commodity by any state,

thereafter to the Commonwealth.” Excepted from the class include the Court and its staff.

31. First, pursuant to C.R. 23.01, (a) the Customer Class is so numerous that joinder of all members is impracticable, in that joining 10,000 or more persons is unwieldy and impossible to manage; and the Dealer Class is so numerous that joinder of all members is impracticable, in that there is estimated to be more than 1,000 dealers or retailers and litigation on behalf of such persons is unwieldy and impossible to manage;
32. Second, pursuant to C.R. 23.01, (b) there are questions of law or fact common to the class, in that the legal issues concerning Governor Beshear’s purported line item veto, and the claims that are now cognizable under 25 RS HB 2. Further, from a factual perspective, the only facts that are relevant between each member of the Customer Class is that they were illegally charged sales or use tax for gold or silver bullion or currency purchases in the class period; and for the Dealer Class, that they collected at the behest of Defendants, sales or use tax for gold or silver bullion or currency purchases in the class period.
33. Third, pursuant to C.R. 23.01, (c) the claims or defenses of the representative parties are typical of the claims or defenses of the class, in that each of the Customer Class Plaintiffs purchased gold or silver bullion or currency, and were illegally charged sales or use tax in the class period, and the Dealer Class Plaintiff collected and remitted sales or use tax during the class period.

the United States government, or a foreign nation; and [d]oes not include medallions or coins that are incorporated into a pendant or other jewelry.”

34. Fourth, pursuant to C.R. 23.01, (d) the representative parties will fairly and adequately protect the interests of the class, and are represented by counsel familiar and experienced with class litigation.
35. Pursuant to C.R. 23.02, (a) The prosecution of separate actions by or against individual members of the class would create a risk of (i) inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the party opposing the class; and/or, (ii) adjudications with respect to individual members of the class which would as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests; and/or (b) the party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole; and/or (c) questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy.
36. There is little difficulty in maintaining this matter as a class action, and significant difficulties that may arise if this matter is not handled on a class-wide basis. The damages are, on an individual basis, small, but, on a class-wide basis, significant.

CLAIM I – REFUND AND OTHER RELIEF UNDER 25 RS HB 2

37. Plaintiffs reincorporate the foregoing paragraphs as if fully written here.

38. Pursuant to 25 RS HB 2, Plaintiffs and the Customer Class seek a refund of all sales and use tax collected on gold or silver currency or bullion from August 1, 2024 to the present from the DOR and/or the Commonwealth.
39. Pursuant to 25 RS HB 2, Plaintiffs and the Customer Class seek prejudgment and post-judgment interest on any amounts of sales and use tax collected on gold or silver currency or bullion from August 1, 2024 to the present from the DOR and/or the Commonwealth.
40. Pursuant to 25 RS HB 2, Plaintiffs, the Dealer Class, and the Customer Class seek temporary and permanent declaratory and injunctive relief, preventing further collection of sales and use tax collected on gold or silver currency or bullion by the DOR, Commonwealth, and Defendants Beshear, Johnson, and Miller in their official capacities, and the Dealer Class seeks declaratory and injunctive relief prohibiting any enforcement actions taken by Defendants for the failure to remit or charge sales or use taxes to Kentucky consumers for gold or silver bullion or currency purchases on or after August 1, 2024.
41. Pursuant to 25 RS HB 2, Plaintiffs, the Dealer Class, and the Customer Class, seek their reasonable attorney fees and costs against Defendants Beshear, Johnson, and Miller in their official capacities, the DOR and/or the Commonwealth.

WHEREFORE, Plaintiffs seek and pray for the following relief against Defendants:

- a. Certification of the Class, pursuant to C.R. 23;
- b. A refund of sales and use tax of gold and/or silver bullion and/or currency or, alternatively, appropriate injunctive relief directing Defendants to create an refund

process of any sales or use tax collected or charged to a consumer for gold and/or silver bullion and/or currency purchases on or after August 1, 2024;

- c. Prejudgment interest as permitted in 25 RS HB 2;
- d. Reasonable attorney fees and costs, as permitted in 25 RS HB 2;
- e. All appropriate temporary and permanent injunctive relief, as permitted in 25 RS HB 2, including, without limitation, injunctive relief, preventing further collection of sales and use tax collected on gold or silver currency or bullion by the DOR, Commonwealth, and Defendants Beshear, Johnson, and Miller in their official capacities; and injunctive relief prohibiting any enforcement actions taken by Defendants for the failure to remit or charge sales or use taxes to Kentucky consumers for bullion purchases on or after August 1, 2024; and
- f. All such further relief as may be just and proper.

Respectfully submitted,

/s/Christopher Wiest

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