

**139.535 Sales and use tax incentive for approved companies on qualifying purchases for economic development projects approved under KRS 154.31-030.**

- (1) As used in this section:
  - (a) "Agreement" has the same meaning as in KRS 154.31-010;
  - (b) "Approved company" has the same meaning as in KRS 154.31-010;
  - (c) "Economic development project" has the same meaning as in KRS 154.31-010;
  - (d) "Electronic processing" has the same meaning as in KRS 154.31-010;
  - (e) "Equipment" has the same meaning as in KRS 154.31-010;
  - (f) "Project term" has the same meaning as in KRS 154.31-010; and
  - (g) "Research and development" has the same meaning as in KRS 154.31-010.
- (2) Notwithstanding any provision of KRS 139.770 to the contrary, an approved company may receive a refund of sales and use tax paid on approved expenses after execution of the agreement for building and construction materials, and equipment used in research and development or for electronic processing at an economic development project as provided in the agreement executed under KRS 154.31-030.
- (3)
  - (a) The approved company shall apply for the sales and use tax incentives as provided in this subsection.
  - (b) For an economic development project with a project term of three (3) years or less, the approved company shall submit an application to receive the sales and use tax incentives to the department within sixty (60) days of the earlier of the completion of the economic development project or the expiration of the project term.
  - (c)
    1. For an economic development project with a project term of greater than three (3) years, the approved company shall, beginning with the third year of the project term, file with the department annually an information return, and any supporting documentation required by the department. The approved company shall not be eligible to receive the sales and use tax incentives until the project is complete and the application for incentives is submitted to the department as required by subparagraph 3. of this paragraph.
    2. The information return and documentation shall be filed with the department within sixty (60) days following the end of the calendar year, and shall include information relating to prior unreported years.
    3. The approved company shall file a final request for sales and use tax incentives within sixty (60) days of the earlier of the completion of the economic development project or the expiration of the project term.
- (4) The approved company shall have no obligation to refund or otherwise return any amount of the sales and use tax refund received to the person who originally collected the tax and remitted it to the Commonwealth.

- (5) An approved company shall execute information-sharing agreements prescribed by the department with contractors, vendors, and other related parties so that the department may verify expenditures and sales and use tax paid.
- (6) Interest shall not be allowed or paid on any incentives paid under this section. The department may examine any distribution of sales and use tax incentives within four (4) years from the date the final application for sales and use tax incentives is received. An overpayment resulting from the examination shall be repaid to the State Treasury. Any amount required to be repaid is subject to the interest provisions of KRS 131.183 and to the penalty provisions of KRS 131.180.
- (7) The department may promulgate administrative regulations in accordance with KRS Chapter 13A, and shall require the filing of forms designed by the department to reflect the intent of this section.

**Effective:** June 26, 2009

**History:** Created 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 23, effective June 26, 2009.

**Legislative Research Commission Note (6/26/2009).** In codification, the Reviser of Statutes has corrected a manifest clerical or typographical error in 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 23, subsection (7) (this statute), by replacing an incorrect reference to "this subchapter" with the correct reference to "this section" under the authority of KRS 7.136.