

**141.385 Nonrefundable tax credit for railroad improvement.**

- (1) As used in this section:
  - (a) "Class II railroad" means a railroad company classified as a Class II carrier by the federal Surface Transportation Board;
  - (b) "Class III railroad" means a railroad company classified as a Class III carrier by the federal Surface Transportation Board;
  - (c) "Qualified expenditures" means expenditures, whether or not otherwise chargeable to a capital account, that are made to maintain or improve railroads located in Kentucky, including roadbeds, bridges, and related structures, that are owned or leased as of January 1, 2008, by a Class II or Class III railroad; and
  - (d) "Eligible taxpayer" means:
    1. The owner of any Class II railroad or Class III railroad located in Kentucky; or
    2. Any person who transports property using the rail facilities of a Class II railroad or Class III railroad located in Kentucky or furnishes railroad-related property or services to a Class II railroad or Class III railroad located in Kentucky, but only with respect to miles of railroad track assigned to the person by a Class II railroad or Class III railroad for purposes of subsection (3) of this section.
- (2) For taxable years beginning after December 31, 2009, an eligible taxpayer shall be entitled to a nonrefundable credit against the taxes imposed by KRS 141.020 or 141.040, and 141.0401 with the ordering of credits as directed in KRS 141.0205, in an amount equal to fifty percent (50%) of the qualified expenditures paid or incurred by the taxpayer during the taxable year.
- (3) The credit allowed under subsection (2) of this section shall not exceed the product of:
  - (a) Three thousand five hundred dollars (\$3,500) multiplied by:
  - (b) The sum of:
    1. The number of miles of railroad track in Kentucky owned or leased by the eligible taxpayer as of the close of the taxable year; and
    2. The number of miles of railroad track in Kentucky assigned for purposes of this section to the eligible taxpayer by a Class II railroad or Class III railroad which owns or leases the railroad track as of the close of the taxable year.
- (4) A mile of railroad track may be taken into account by a qualified taxpayer other than the owner only if the mile of railroad track is assigned to the person by the owner for purposes of this section. Any mile that is so assigned shall not be taken into account by the owner for purposes of this section.
- (5) With respect to any assignment of a mile of railroad track under subsection (4) of this section:

- (a) The assignment may be made only once per taxable year of the Class II railroad or Class III railroad and shall be treated as made as of the close of the taxable year;
  - (b) The mile shall not be taken into account under this section by the railroad for such taxable year; and
  - (c) The assignment shall be taken into account for the taxable year of the assignee, which includes the date that the assignment is treated as effective.
- (6) If a credit is taken as provided for in subsection (2) of this section, the basis of the track shall be reduced by the amount of credit taken.

**Effective:** June 26, 2009

**History:** Created 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 69, effective June 26, 2009.