

**141.430 Calculation of income tax credit for approved companies -- Administrative regulations.**

- (1) As used in this section, unless the context requires otherwise:
  - (a) "Approved company" has the same meaning as set forth in KRS 154.48-010;
  - (b) "Project" has the same meaning as set forth in KRS 154.48-010;
  - (c) "Tax credit" means the tax credit allowed in KRS 154.48-025;
  - (d) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401; and
  - (e) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401.
- (2) (a) For taxable years ending prior to June 4, 2010, an approved company shall determine the income tax credit as follows:
  1.
    - a. Compute the tax imposed by KRS 141.040 or the tax imposed by KRS 141.020 on the taxable net income of the corporation or taxable net income of the individual for the first taxable year after December 31, 2005, that ends immediately prior to the activation date defined in KRS 154.48-010(1);
    - b. Compute the limited liability entity tax imposed under KRS 141.0401, if applicable, for the first taxable year after December 31, 2005, that ends immediately prior to the activation date defined in KRS 154.48-010(1); and
    - c. Add the amounts computed under subdivisions a. and b. of this subparagraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.
  2.
    - a. For each taxable year beginning with the year in which the activation date defined in KRS 154.48-010(1) occurs and ending with the year in which the agreement terminates as referenced in KRS 154.48-025(5), compute the tax imposed by KRS 141.040 or the tax imposed by KRS 141.020 on the taxable net income for the current taxable year;
    - b. Using the same method used under paragraph (a)1.b. of this subsection, for each taxable year beginning with the year in which the activation date defined in KRS 154.48-010(1) occurs and ending with the year in which the agreement terminates as referenced in KRS 154.48-025(5), compute the limited liability entity tax imposed under KRS 141.0401 for the current taxable year; and
    - c. Add the amounts computed under subdivisions a. and b. of this subparagraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.

- (b) For taxable years ending on or after June 4, 2010:
  - 1. Compute the net tax in the same manner as in paragraph (a)1. of this subsection, except the amount determined under paragraph (a)1.c. of this subsection shall be multiplied by fifty percent (50%); and
  - 2. Compute the net tax in the same manner as in paragraph (a)2. of this subsection.
- (c)
  - 1. For taxable years ending before June 4, 2010, the income tax credit shall be the amount that the computation under paragraph (a)2.c. of this subsection exceeds the amount computed under paragraph (a)1.c. of this subsection, subject to the limitations provided by KRS 154.48-025.
  - 2. For taxable years ending on or after June 4, 2010, the income tax credit shall be the amount that the computation under paragraph (b)2. of this subsection exceeds the amount computed under paragraph (b)1. of this subsection, subject to the limitations provided by KRS 154.48-025.
- (3) An approved company that is a pass-through entity not subject to the tax imposed by KRS 141.040 shall be subject to income tax on the net income attributable to the project at the rates provided in KRS 141.020. The amount of the credit shall be determined as provided in subsection (2) of this section. The credit shall apply to both the tax imposed by KRS 141.0401 and the tax imposed by KRS 141.020, with the ordering of credits as provided in KRS 141.0205. Upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the partners, members, or shareholders of the pass-through entity and shall be paid on behalf of the partners, members, shareholders, or beneficiaries.
- (4) The department may promulgate administrative regulations and require the filing of forms designed by the department to reflect the intent of the provisions of this section.

**Effective:** June 4, 2010

**History:** Amended 2010 (1st Extra. Sess.) Ky. Acts ch. 2, sec. 19, effective June 4, 2010. -- Amended 2007 (2d Extra. Sess.) Ky. Acts ch. 1, sec. 44, effective August 30, 2007. -- Amended 2006 (1st Extra. Sess.) Ky. Acts ch. 2, sec. 36, effective June 28, 2006. -- Created 2005 Ky. Acts ch. 168, sec. 149, effective March 18, 2005.

**Legislative Research Commission Note** (6/28/2006). 2006 (1st Extra Sess.) Ky. Acts ch. 2, sec. 73, provides that "unless a provision of this Act specifically applies to an earlier tax year, the provisions of this Act shall apply to taxable years beginning on or after January 1, 2007."

**Legislative Research Commission Note** (3/18/2005). 2005 Ky. Acts ch. 168, sec. 165, provides that this section shall apply to tax years beginning on or after January 1, 2005.

**Legislative Research Commission Note** (3/18/2005). 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.