

INSTRUCTIONS FOR SCHEDULE RC**Application for Income Tax/LLET Credit for
Recycling and/or Composting Equipment
or Major Recycling Project****KRS 141.390**

The Recycling and/or Composting Equipment or Major Recycling Project Credit is applied against the individual income tax imposed under KRS 141.020, the corporation income tax imposed under KRS 141.040 and the limited liability entity tax (LLET) imposed under KRS 141.0401. The amount of credit imposed against the corporation income tax and LLET can be different.

Tax Preparers' Note: Per KRS 141.390(2)(a) "Any credit allowed against the income tax imposed pursuant to this chapter shall also be applied against the limited liability entity tax imposed by KRS 141.0401." Therefore, 100 percent of the amount of credit approved, listed in Part II, Line 2, is available against both the income tax liability and the LLET liability (subject to the listed limitations). **The amount of credit claimed and the resulting balance of credit available must be calculated separately for income tax and the LLET. If the balance available for the income tax or the LLET reaches zero, no further credit is allowed against that tax liability.** For example, any balance available for income tax cannot be used as a credit against the LLET nor can any balance available for the LLET be used as a credit against the income tax liability.

Purpose of Form—This form is used for both the recycling credit and a Major Recycling Project. It is used to request approval for the amount of Kentucky income tax credit and LLET credit that is allowable for the purchase and installation of recycling or composting equipment. It is also used by individual, fiduciary or corporate taxpayers to substantiate and keep a record of the amount of credit claimed on their tax return.

Who is Entitled to the Credit—Any taxpayer who purchases and installs recycling or composting equipment to be used exclusively in Kentucky is entitled to the tax credit. If the purchaser is a pass-through entity, the partners are entitled to their pro rata or distributive share of any approved credit.

For a Major Recycling Project, the taxpayer must meet the following requirements: (1) invest more than \$10 million in recycling or composting equipment to be used **exclusively** in this state; (2) have more than 750 full time employees with an average hourly wage of more than 300 percent of the federal minimum wage; and (3) have plant and equipment with a total cost of more than \$500 million.

The Amount of the Credit and When Permitted—For recycling or composting equipment, other than Major Recycling Projects, the total allowable tax credit is equal to 50% of the combined costs of qualifying equipment and installation, if any. The maximum allowable credit in year of purchase (installation) is limited to the lesser of 10% of the equipment purchase/installed or 25% of tax liability. For all other years, the credit is limited to 25% of tax liability. For LLET purposes, the credit is subject to the limitations applied against the LLET liability. Therefore, separate credit balances must be maintained. The unused portion of the credit may be carried forward to succeeding tax years.

For a Major Recycling Project, the total allowable credit is equal to 50% of the installed cost of the recycling or composting equipment. In each taxable year the amount of credit claimed for all Major Recycling Projects is limited to 50% of the excess of the total of each tax liability over

the baseline tax liability of the taxpayer not to exceed \$2.5 million. The baseline tax liability is the tax liability of the taxpayer for the most recent tax year ending prior to January 1, 2005. For LLET purposes, the credit is subject to the limitations applied against the LLET liability. Therefore, separate credit balances must be maintained. The credit is limited to a period of 10 years commencing with the approval of the recycling credit application.

Equipment that requires installation must be completely installed and usable during the first taxable year for which the tax credit is claimed.

Pass-through Entities—For tax years beginning on or after January 1, 2005, any corporation that was defined as a corporation in KRS 141.010(24)(b) 2 to 8 was permitted to elect to claim the balance of a recycling credit approved prior to March 18, 2005 against its tax liability imposed under KRS 141.040. Any credit approved by the Department of Revenue for tax years 2005 and 2006, was retained at the entity level and not passed to the partners, members or shareholders. Due to the passage of HB 1 in the 2006 Extraordinary Session, for tax years beginning on or after January 1, 2007, these entities are no longer defined as corporations. However, these entities are entitled to use the credit against their LLET. Therefore, if any credit balance remains at the close of the 2006 tax year, do the following:

1. Claim the credit against the LLET based upon the limitations imposed in KRS 141.390.
2. Distribute the balance of credit that was approved for tax years 2005 and 2006 to the partners, members or shareholders on a pro rata or distributive share basis and record on Schedule K-1.
3. Do not distribute the balance of credit that was claimed pursuant to KRS 141.390(3).

Distribute any credit approved for tax years beginning on or after January 1, 2007 to the partners, members or shareholders on a pro rata or distributive share basis and record on Schedule K-1.

Types of Equipment Qualifying as Eligible Purchases—KRS 141.390 provides the following pertinent definitions:

- (a) "Postconsumer waste" means any product generated by a business or consumer which has served its intended end use, and which has been separated from solid waste for the purposes of collection, recycling, composting, and disposition and which does not include secondary waste material or demolition waste;
- (b) "Recycling equipment" means any machinery or apparatus used exclusively to process postconsumer waste material and manufacturing machinery used exclusively to produce finished products composed of substantial postconsumer waste materials; and (emphasis added)
- (c) "Composting equipment" means equipment used in a process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and which stabilizes the organic fraction into a material which can easily and safely be stored, handled, and used in a[n] environmentally acceptable manner.

The following items **may** qualify as composting and recycling equipment if one of the two conditions below is met:

Balers	Magnetic Separators
Bob Cat	Material Recovery Facility
Briquetters	Equipment
Compactors	Pallet Jacks
Containers	Perforators
Conveyors	Pumps with Oil
Conveyor Systems	Scales
Crane with Grapel Hook	Screeners
Crushers	Shears
Densifiers	Shredders
End Loaders	Tractor
Exhaust Fans	Trailer
Fluffers	Trucks and Roll-offs
Fork Lifts	Two-wheel Carts
Granulators	Vacuum Systems
Lift-gate	

The conditions are as follows:

- (1) "Recycling equipment" used **exclusively** to **process** postconsumer waste material, or
- (2) "Composting equipment" used in a **process** carried out under controlled aerobic conditions.

For example, a can crusher is recycling equipment but home trash containers or trash bin collectors and other similar items used for collecting and/or separating postconsumer waste are not recycling equipment.

A self-contained "backyard composter" is composting equipment but lawn tractors, mowers and mulching or bagging attachments and other similar equipment used to gather organic waste for composting are not "composting equipment."

This list is not all-inclusive. If you have a question about whether a specific item is eligible under the law, contact the Department of Revenue, Division of Corporation Tax, (502) 564-8139.

When and Where to File Application—This application must be filed with the Department of Revenue, Division of Corporation Tax, Frankfort, Kentucky 40601, on or before the first day of the seventh month following the close of the taxable year in which the qualifying equipment was purchased (installed). Applications bearing a postmark after the above date will not be approved. Prior approval must be obtained before claiming the credit. Taxpayers must file only one application for all purchases qualifying during the taxable period for which the application is being filed. The original copy of the approved application will be returned to the purchaser.

Signature—The application must be signed by the applicant or other authorized person. Unsigned applications will be returned.

SPECIFIC INSTRUCTIONS

Check Box—If a Major Recycling Project, check the box and complete Part I and page 2.

Pass-through Entities—The total approved recycling and/or composting equipment or major recycling project credit shall be reported on Form 720S, Schedule K, Line 15; or on Form 765 or Form 765-GP, Schedule K, Line 16.

PART I—Part I shall be completed for a Major Recycling Project also. Taxpayers must complete only Columns A through F of this part and the description portion for each type of equipment listed in Column A. If more than two types of equipment were purchased during the taxable year, a continuation schedule for Part I is provided.

Column A—Enter the specific name of the machinery, equipment or apparatus. For each item listed, give a brief and concise description of the means by which it is used exclusively in the composting or recycling process.

Column B—Enter the name of the city, or if not a city, the county, in Kentucky where the qualifying equipment or machinery is located.

Column D—Enter the installation date if applicable. If installation is required, enter the date the installation is completed and the equipment is ready for use.

Column E—Enter the purchase price or contract price of the qualifying equipment or machinery purchased.

Column F—Enter the cost of installing the equipment or machinery to make it ready for use. Installation cost includes shipping charges incurred and paid by the purchaser. Round the amounts entered in Columns E and F to the nearest whole dollar. Generally, the total amount of Columns E and F should equal the cost basis allowable for Kentucky depreciation purposes. Invoices, installation contracts and any other documentation necessary to verify cost of equipment and installation must be submitted to the Department of Revenue at the time the application is submitted.

Column G—Do not complete Column G. This column is to be completed by the Department of Revenue to determine the total expense qualifying for the tax credit.

PART II—Do not complete this part. It will be used by the Department of Revenue to show the amount of tax credit approved.

PART III—(Do not record the credit for a Major Recycling Project in Part III.) Entities subject to the LLET, record the amount of approved credit claimed against the LLET in the LLET column for each taxable year. Individuals or entities other than pass-through entities, record the amount of approved credit claimed against the income tax in the Income Tax column for each taxable year. Enter on the appropriate line of the Kentucky tax return or Schedule TCS, the current year credit claimed against the LLET and/or income tax.

Attach a copy of the approved application including the entries made to date in this part to the Kentucky tax return for each year which any approved credit reflected by this application is claimed.

Recording the Tax Credit—Enter in the applicable column(s) on Schedule TCS, Part II, the recycling/composting and major recycling project credits being claimed against the LLET and/or income tax on Form 720. Enter on Schedule TCS, Part II, Column E, the recycling/composting and major recycling project credits being claimed against the LLET on Form 720S, 725 or 765. Credits cannot exceed the limitations set forth in KRS 141.390 or reduce the LLET tax liability below the \$175 minimum.

For income tax purposes, pass-through entities must enter the credit approved by the Department of Revenue on Schedule K.

MAJOR RECYCLING PROJECT

PART IV—Answer all questions. If yes to all three questions, continue to Part I.

PART V—Complete this part once you have received the approved application from the Department of Revenue. Partners/members/shareholders will complete this part based upon their specific tax information. Their share of the approved credit will be reported on Kentucky Schedule K-1.

The credit for a Major Recycling Project may be claimed against the LLET (corporations and limited liability pass-through entities) and income tax (entities subject to the tax imposed under KRS 141.020 or 141.040). The amount of credit claimed for each tax may be different and separate balances must be maintained.

Line 3—Enter the tax liability for the most recent tax year ending prior to January 1, 2005. The LLET baseline is -0-.

Line 7—Once the amount of credit is determined, enter here and in Part VI, Column C, LLET. Next, combine the LLET credit claimed here with the LLET credit claimed in Part II and enter the total on Schedule TCS, Part II, Column E. The credit claimed cannot reduce the LLET below the \$175 minimum.

Line 8—Once the amount of credit is determined, enter here and in Part VI, Column C, Income. Next, combine the income tax credit claimed here with the income tax credit claimed in Part II and enter the total on Schedule TCS, Part II, Column F.

PART VI—Individuals or entities other than general partnerships use this part to record the amount of the approved major recycling project credit and the amount of credit claimed for each taxable year. If no credit is taken, enter zero (-0-). The credit is limited to a period of 10 years commencing with the approval of the recycling credit application. Attach a copy of the approved application including the entries made to date to the Kentucky tax return for each year for which any approved credit reflected by this application is claimed.

Column B—In the year the credit is approved, enter in both the LLET column and Income column the major recycling project credit approved by the Department of Revenue. The approved credit is the same for LLET and income tax purposes. For subsequent years, the balance of the LLET credit and Income credit will be the amount of Column B less Column C for the LLET column and Income column, respectively.

Note: The 2007 beginning balance of the Major Recycling Project tax credit for LLET will be the same as the balance for income tax purposes.

Column C—In each year that the credit is claimed against LLET, enter in the LLET column the amount of the credit from Part V, Line 7; and for each year the credit is claimed against income tax, enter in the Income column the amount of the credit from Part V, Line 8 or 9.