



INSTRUCTIONS

2011 KENTUCKY S CORPORATION INCOME TAX AND LLET RETURN

PURPOSE OF THE INSTRUCTIONS

These instructions have been designed for S corporations, both domestic and foreign, which are required by law to file a Kentucky S corporation income tax return.

Refer to the chart on page 2 to determine what tax form your business needs to file.

HOW TO OBTAIN ADDITIONAL FORMS

Forms and instructions are available at all Kentucky Taxpayer Service Centers (see page 18). They may also be obtained by writing FORMS, Department of Revenue, 501 High Street, Frankfort, KY 40601-2103, or by calling (502) 564-3658. Forms can be downloaded from www.revenue.ky.gov.

KENTUCKY TAX LAW CHANGES

2009 Special Session of the Kentucky General Assembly

HB 3 – Provisions effective for tax years beginning on or after January 1, 2010

Certified Rehabilitation Tax Credit – KRS 141.382 was created to provide a refundable or transferable credit against the taxes imposed by KRS 136.505 or 141.020 or 141.040 and 141.0401, with the ordering of credits provided in KRS 141.0205, for qualified rehabilitation expenses incurred by the taxpayer and used for substantial rehabilitation to a certified historic structure as provided by KRS 171.397.

KRS 171.397(1)(b) provides that for applications for preliminary approval received after April 30, 2010, the credit shall be refundable if the taxpayer makes an election under KRS 141.397(2)(b)2.a. KRS 171.397(2)(b)2 provides that the application shall include an irrevocable election by the taxpayer to: (a) use the credit, in which case, the credit shall be refundable; or (b) transfer the credit. KRS 171.397(8) provides that the certified rehabilitation credit permitted by KRS 141.382 may be transferred or assigned to any entity subject to the tax imposed by KRS 136.505 if an election is made to transfer the credit as provided by KRS 171.397(2)(b)2.b. for some or no consideration, along with any related benefits, rights, responsibilities and liabilities.

2010 Special Session of the Kentucky General Assembly

HB 2 – Provisions effective for tax years beginning on or after January 1, 2011

Kentucky Small Business Investment Credit Program – KRS 141.384 was created to provide a nonrefundable tax credit against the taxes imposed by KRS 141.020 or 141.040 and KRS 141.0401. A small business shall not be eligible to apply for credits and receive final approval for the credits until one year after the small business: (a) creates and fills one or more eligible positions over the base employment, and that position or positions are created and filled for twelve months; and (b) invests \$5,000 or more in qualifying equipment or technology. The maximum amount of credits that may be committed in each fiscal year by the Kentucky Economic Development Finance Authority shall be capped at \$3 million. The maximum amount of credit for each small business for each year shall not exceed \$25,000.

Endow Kentucky Tax Credit – KRS 141.438 was created to provide a nonrefundable tax credit against the taxes imposed by KRS 141.020 or 141.040 and KRS 141.0401 for a taxpayer making an endowment gift to a permanent endowment fund of a qualified community foundation, or county-specific component fund, or affiliate community foundation, which has been certified under KRS 147A.325, and meeting the requirements of KRS 141.438(7). The total amount of tax credit that may be awarded under this section shall be limited to \$500,000 in each fiscal year. The credit shall be equal to twenty percent (20%) of the value of the endowment gift provided by the taxpayer, not to exceed \$10,000.

New Markets Development Program Tax Credit – KRS 141.432 to 141.434 was created to encourage taxpayer investment in qualified low-income communities. A taxpayer that makes a qualified equity investment as provided by KRS 141.432(7) in a qualified community development entity as provided by KRS 141.432(6) shall be entitled to a nonrefundable tax credit against the taxes imposed by KRS 141.020, 141.040, 141.0401, 136.320, 136.330, 136.340, 136.350, 137.370, 136.390 or 304.3-270. The total amount of tax credits that may be awarded by the department shall be limited to \$5 million. “Qualified low-income community investment” means any capital or equity investment in, or loan to, any qualified active low-income community business made after June 4, 2010. With respect to any one qualified active low-income community business, the maximum amount of qualified active low-income community investments that may be made in the

business, on a collective basis with all of its affiliates, with the proceeds of qualified equity investments that have been certified under KRS 141.433 shall be \$10 million, whether made by one or several qualified community development entities.

The amount of the credit shall be equal to 39% of the purchase price of the qualified equity investment made by the taxpayer. A taxpayer is allowed to claim zero percent (0%) for each of the first two credit allowance dates, seven percent (7%) for the third allowance date, and eight percent (8%) for the next four allowance dates. “Credit allowance date” means with respect to any qualified equity investment: (a) the date on which the investment is initially made; and (b) each of the six anniversary dates of that date thereafter.

FILING FORM GUIDE			
Type of Entity	Kentucky Form and Tax		
	Form Required	Corporation Income Tax	LLET
1. C corporation	720	Yes	Yes
2. C corporation (consolidated group as provided by KRS 141.200(4))	720	Yes	Yes
3. C corporation (nexus consolidated group as provided by KRS 141.200(11))	720	Yes	Yes
4. Publicly traded partnership (taxed as a corporation for federal income tax purposes)	720	Yes	Yes
5. S corporation	720S	Yes*	Yes
6. Single member limited liability company whose single member is an individual	725	No	Yes
7. Limited liability company (two or more members)	765	No	Yes
8. Limited partnership	765	No	Yes
9. Limited liability partnership	765	No	Yes
10. General partnership	765-GP	No	No
11. Publicly traded partnership (taxed as a partnership for federal income tax purposes)	765-GP	No	No

*** If the S corporation has built-in gains, passive investment income or installments of tax on the recapture of LIFO benefits as provided by KRS 141.040(14).**

IMPORTANT

Corporations must create a Kentucky Form 4562, Schedule D and Form 4797 by converting federal forms.

Depreciation, Section 179 Deduction and Gains/Losses From Disposition of Assets—For taxable years beginning after December 31, 2001, Kentucky depreciation and Section 179 deduction are determined in accordance with the IRC in effect on December 31, 2001. For calendar year 2011 returns and fiscal year returns that begin in 2011, any corporation that elects any of the following will have a different depreciation or Section 179 expense deduction for Kentucky purposes than for federal purposes:

- 30 percent bonus depreciation allowance;
- 50 percent bonus depreciation allowance;
- increased Section 179 deduction from \$25,000 to \$250,000; or
- increased Section 179 deduction from \$25,000 to \$500,000.

If any of the above federal/Kentucky differences exist, the differences will continue through the life of the assets. There will be recapture and basis differences for Kentucky and federal income tax purposes until the assets are sold or fully depreciated.

Important: If the corporation has not taken the 30 percent special depreciation allowance, the 50 percent special depreciation allowance or the increased Section 179 deduction for federal income tax purposes on any assets for which a depreciation deduction is being claimed for the taxable year, then no adjustment will be needed for Kentucky income tax purposes. **If federal Form 4562 is required to be filed for federal income tax purposes, a copy must be submitted with Form 720S to verify that no adjustments are required.**

Determining and Reporting Depreciation and Section 179 Deduction Differences—Federal/Kentucky depreciation or Section 179 deduction differences shall be reported as follows:

1. The depreciation from federal Form 1120S, Line 14 and depreciation claimed on federal Form 1125-A or elsewhere (except for the Section 179 deduction) on Form 1120S must be included on Form 720S, Part I, Line 3. **If federal Form 4562 is required to be filed for federal income tax purposes, a copy must be attached to Form 720S.**
2. Convert federal Form 4562 to a Kentucky form by entering **Kentucky** at the top center of the form above Depreciation and Amortization. Compute Kentucky depreciation and Section 179 deduction in accordance with IRC in effect on December 31, 2001, by ignoring the lines and instructions regarding the special depreciation allowance and the additional Section 179 deduction. **NOTE:** For Kentucky purposes, the maximum Section 179 deduction amount on Line 1 is \$25,000 and the threshold cost of Section 179 property on Line 3 is \$200,000. The \$25,000 maximum

allowable Section 179 deduction for Kentucky purposes is reduced dollar-for-dollar by the amount by which the cost of qualifying Section 179 property placed in service during the year exceeds \$200,000. In determining the Section 179 deduction for Kentucky, the income limitation on Line 11 should be determined by using Kentucky net income before the Section 179 deduction instead of federal taxable income.

3. The corporation **must attach the Kentucky Form 4562** to Form 720S, and the amount from Kentucky Form 4562, Line 22 less the Section 179 deduction on Line 12 must be included on Form 720S, Part I, Line 8. The Section 179 deduction from the Form 4562, Line 12 must be included on Form 720S, Schedule K, Section I, Line 8. A Kentucky Form 4562 must be filed for each year even if a federal Form 4562 is not required.

Determining and Reporting Differences in Gain or Loss From Disposition of Assets—If during the year the corporation disposes of assets on which it has taken the special depreciation allowance or the additional Section 179 deduction for federal income tax purposes, the corporation will need to determine and report the difference in the amount of gain or loss on such assets as follows:

1. Convert **federal Schedule D (Form 1120S)** and other applicable federal forms to Kentucky forms by entering **Kentucky** at the top center of the form, and compute the Kentucky capital gain or (loss) from the disposal of assets using Kentucky basis. Enter the amount from Kentucky Schedule D, Line 6 on Form 720S, Schedule K, Section I, Line 4(d) or 6. Enter the amount from Kentucky Schedule D, Line 13 on Form 720S, Schedule K, Section I, Line 4(e) or 6. **Federal Schedule D (Form 1120S) filed with the federal return and the Kentucky Schedule D must be attached to Form 720S.**
2. If the amount reported on federal Form 1120S, Line 4 (from Form 4797, Line 17) is a gain; enter this amount on Schedule O–PTE, Part II, Line 1. If the amount reported on federal Form 1120S, Line 4 (from Form 4797, Line 17) is a loss; enter this amount on Schedule O–PTE, Part I, Line 1. Convert **federal Form 4797** and other applicable federal forms to Kentucky forms by entering **Kentucky** at the top center of the form, and compute the Kentucky gain or (loss) from the sale of business property using Kentucky basis. If the amount on Kentucky Form 4797, Line 17 is a gain; enter this amount on Schedule O–PTE, Part I, Line 2. If the amount on Kentucky Form 4797, Line 17 is a loss; enter this amount on Schedule O–PTE, Part II, Line 2. **Federal Form 4797 filed with the federal return and the Kentucky Form 4797 must be attached to Form 720S.**

Tax Treatment of S Corporation and Shareholder(s)

A corporation which elects S corporation treatment for federal income tax purposes in accordance with Sections 1361(a) and 1361(b) of the IRC must file as an S corporation for Kentucky income tax purposes. For taxable years beginning on or after January 1, 2007, an S corporation is classified as a limited liability pass-through entity as provided by KRS 141.010(28). For taxable years beginning on or after January 1, 2007, an annual limited liability entity tax (LLET) shall be paid by every corporation and every limited liability pass-through entity doing business in Kentucky on all Kentucky gross receipts or Kentucky gross profits as provided by KRS 141.0401(2), unless specifically excluded. See LLET Nonfiling Status Codes on page 8 of these instructions.

Also, an S Corporation for tax years beginning on or after January 1, 2007, is required: (1) to submit installments of tax on the recapture of LIFO reserves as provided by Section 1363(d) of the Internal Revenue Code; (2) pay tax on built-in gains as provided by Section 1374 of the Internal Revenue Code; and (3) pay tax on net passive investment income as provided by Section 1375 of the Internal Revenue Code. The tax rate imposed on the LIFO recapture, built-in gains, and net passive investment income shall be at the highest rate of tax for the taxable year, which is currently six percent (6%). **KRS 141.040(14)**

In determining tax as provided by KRS Chapter 141, a resident individual, estate, or trust that is a shareholder of an S corporation shall take into account the shareholder's total distributive share of the S corporation's items of income, loss, and deduction. In determining tax as provided by KRS Chapter 141, a nonresident individual, estate, or trust that is a shareholder of an S corporation shall take into account the shareholder's total distributive share of the S corporation's items of income, loss, and deduction multiplied by the apportionment fraction if applicable in KRS 141.206(12). **KRS 141.206(8) and (9)**

Resident and nonresident individual shareholders shall be entitled to a nonrefundable LLET credit against tax imposed under KRS 141.020 (Kentucky individual income tax). The nonrefundable LLET credit allowed shareholders shall be the shareholders' proportionate share of the LLET for the current year after the subtraction of any credits identified in KRS 141.0205 and reduced by \$175. The credit allowed shareholders shall be applied to the income tax assessed on income from the S corporation. Any remaining credit from the S corporation shall be disallowed. **KRS 141.0401(3)**

Banks and Savings and Loan Associations—KRS 141.040(1) excludes financial institutions (banks and savings and loan associations) as defined in KRS 136.500 from tax on taxable net income and KRS 141.0401(6)(a) and (b) excludes financial institutions from the LLET.

KRS 141.010(10)(j) excludes from the Kentucky adjusted gross income of the shareholders the distributive share of net income from an S corporation subject to tax under KRS 136.505, the bank franchise tax, or KRS 136.300, the savings and loan association capital stock tax. KRS 141.010(10)(j) also excludes from the Kentucky adjusted gross income of the shareholders the portion of the distributive share of net income from an S corporation related to a qualified S subsidiary subject to tax under KRS 136.505 or KRS 136.300.

An S corporation subject to tax under KRS 136.505 or KRS 136.300 should enter zero on Lines 1 through 10 of Form 720S, Schedule K. An S corporation related to a qualified S subsidiary

subject to tax under KRS 136.505 or KRS 136.300 should exclude from the amounts entered on Lines 1 through 10 of Form 720S, Schedule K the portion of these items related to the subsidiary. The net amount of the items of income and deductions excluded from Lines 1 through 10 of Form 720S, Schedule K should be entered on Line 40 of Form 720S, Schedule K. A statement should be attached to each shareholder's Form 720S, Schedule K-1 advising the shareholder that this income is excluded for Kentucky income tax purposes because the S corporation is subject to tax under either KRS 136.505 or KRS 136.300.

GENERAL INFORMATION

Internal Revenue Code Reference Date—Effective for taxable years beginning after December 31, 2006, Kentucky Revised Statute (KRS) 141.010(3) was amended to define "Internal Revenue Code" (IRC) for Kentucky income tax purposes to mean the IRC in effect on December 31, 2006, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2006, that would otherwise terminate and as modified by KRS 141.0101. For property placed in service after September 10, 2001, only the depreciation and expense deductions allowed under Sections 168 and 179 of the Internal Revenue Code in effect on December 31, 2001, exclusive of any amendments made subsequent to that date shall apply. **KRS 141.010(3)**

Kentucky Tax Registration Application—Prior to doing business in Kentucky, each corporation should complete a Kentucky Tax Registration Application, Revenue Form 10A100 to register for a Kentucky Corporation/LLET Account Number. This account number will be used for remitting the corporation income tax as required per KRS 141.040 and the LLET as required per KRS 141.0401. The application is available at KentuckyTaxpayer Service Centers (see page 18) or from the Department of Revenue, Taxpayer Registration Section, Frankfort, KY 40620 or at www.revenue.ky.gov (click on Business). The application may be faxed to (502) 227-0772.

Who Must File—**NOTE:** The limitations imposed and protections provided by the United States Constitution or Pub. L. No. 86-272 do not apply to the limited liability entity tax imposed by KRS 141.0401. A Kentucky S Corporation Income Tax and LLET Return, Form 720S, must be filed by every S corporation: (a) being organized under the laws of this state; (b) having a commercial domicile in this state; (c) owning or leasing property in this state; (d) having one or more individuals performing services in this state; (e) maintaining an interest in a pass-through entity doing business in this state; (f) deriving income from or attributable to sources within this state, including deriving income directly or indirectly from a trust doing business in this state, or deriving income directly or indirectly from a single member limited liability company that is doing business in this state and is disregarded as an entity separate from its single member for federal income tax purposes; or (g) directing activities at Kentucky customers for the purpose of selling them goods or services. **KRS 141.010(25), KRS 141.040, KRS 141.0401 and KRS 141.206**

Disregarded Entities—A Qualified Sub Chapter S Subsidiary (QSSS) and a single member limited liability company (LLC) are treated for Kentucky income tax purposes in the same manner as they are treated for federal income tax purposes. Therefore, a QSSS or a single member LLC that is disregarded for federal income tax purposes shall be included in the return filed by its single member (parent entity). A single member filing Form 1120S for federal purposes must file Form 720S. **KRS 141.010(25), KRS 141.200(10) and 103 KAR 16:300**

Pass-through Entities—An S corporation doing business in Kentucky solely as a partner or member in a pass-through entity will file Form 720S pursuant to the provisions of KRS 141.010, 141.120 and 141.206. (See Schedule A—Apportionment and Allocation Instructions and Schedule A–C Apportionment and Allocation Continuation Sheet.)

S Corporations Not Required to File—S corporations which are exempt by law from Kentucky income tax include financial institutions as defined in KRS 136.500, insurance companies, savings and loan associations, corporations exempted by IRC Section 501 and religious, educational, charitable and like corporations not conducted for profit. **KRS 141.040**

Nonresident Withholding (Form 740NP–WH)

Withholding

A partner or member that is an S corporation or partnership is not subject to withholding. S corporations and partnerships are pass-through entities as provided by KRS 141.010(26).

KRS 141.206(5) provides that for taxable years beginning on or after January 1, 2007, every pass-through entity required to file a return under KRS 141.206(2), except publicly traded partnerships as defined in KRS 141.0401(6)(r), shall withhold Kentucky income tax on the distributive share, whether distributed or undistributed, of each nonresident individual (**includes an estate or trust partner, member or shareholder**) partner, member or shareholder, or each C–corporation partner or member that is doing business in Kentucky only through its ownership interest in a pass-through entity. Withholding shall be at the maximum rate as provided in KRS 141.020 or KRS 141.040.

Withholding shall not be required if: (a) the pass-through entity demonstrates to the department that a partner, member or shareholder has filed an appropriate tax return for the prior year with the department by attaching to the Kentucky Form 40A201, 740NP–WH, Kentucky Nonresident Income Tax Withholding on Distributive Share Income Report and Composite Income Tax Return, a statement that the partner, member or shareholder is exempt from withholding as provided by KRS 141.206(7), and providing each partner’s, member’s or shareholder’s name, address, federal identification number, Kentucky Corporation/LLET Account Number, if applicable, and net distributive income; (b) the nonresident partner or member is exempt from Kentucky income tax as provided by KRS 141.040(1); (c) the partner, member or shareholder is a nonresident individual and the pass-through entity is a qualified investment pass-through entity as provided by KRS 141.206(15) (a); or (d) the partner or member is a pass-through entity as provided by KRS 141.010(26).

For taxable years beginning on or after January 1, 2012, a pass-through entity required to withhold Kentucky income tax as provided by KRS 141.206(5) shall make estimated tax payments if required by the provisions of KRS 141.206(6). If the pass-through entity is required to make estimated tax payments for taxable years beginning on or after January 1, 2012, use Form 740NP–WH–ES (Kentucky Estimated Tax Vouchers).

The reporting of a nonresident individual’s, estate’s or trust’s net distributive share income and withholding on Form 740NP–WH at the maximum rate of six (6) percent shall satisfy the filing requirements of KRS 141.180 for a nonresident individual, estate or trust partner, member or shareholder whose only Kentucky source income is net distributive share income. The nonresident

individual, estate or trust partner, member or shareholder may file a Kentucky Individual Income Tax Return Nonresident or Part–Year Resident (Form 740–NP) or a Kentucky Fiduciary Income Tax Return (Form 741) to take advantage of the graduated tax rates, credits and deductions.

A pass-through entity shall complete Form 740NP–WH and Form PTE–WH for each nonresident individual, estate or trust partner, member or shareholder and each corporate partner or member and mail Form 740NP–WH and Copy A of Form PTE–WH to the Kentucky Department of Revenue with payment by the 15th day of the fourth month following the close of the pass-through entity’s taxable year. Also, Copy B and C of Form PTE–WH shall be provided to the partners, members or shareholders. Form 740NP–WH and Form PTE–WH are available at www.revenue.ky.gov.

Composite Return—Nonresidents Only

Do not include a nonresident individual (includes an estate or trust partner, member or shareholder) partner, member or shareholder in a composite return if the partner’s, member’s or shareholder’s distributive share income was subject to withholding and reported on Form 740NP–WH and PTE–WH.

The composite return applies only to nonresident individual (includes an estate or trust partner, member or shareholder) partners, members or shareholders: (i) whose distributive share income was not subject to withholding as provided by KRS 141.206(5); (ii) whose only source of income within this state is distributive share income from one or more pass-through entities; and (iii) that elect to be included in a composite return as provided by KRS 141.206(16).

For taxable years beginning on or after January 1, 2007, the Department of Revenue will permit the filing of a “composite return” as provided by KRS 141.206(16) on behalf of electing nonresident individual partners, members or shareholders of a pass-through entity as defined in KRS 141.010(26). Income tax will be computed at the highest marginal rate provided in KRS 141.020 on the partner’s, member’s or shareholder’s pro rata share of the distributive share income from a pass-through entity doing business in, or deriving income from sources within Kentucky. The partners’, members’ or shareholders’ distributive share of income shall include all items of income or deduction used to compute adjusted gross income on the Kentucky return that is passed through to the partner, member or shareholder by the pass-through entity, including but not limited to interest, dividend, capital gains or losses, guaranteed payments and rents (KRS 141.206(16)).

The composite return of a pass-through entity shall be filed with the Department of Revenue on Form 740NP–WH, Kentucky Nonresident Income Tax Withholding on Distributive Share Income Report and Composite Income Tax Return. The composite return box on the front of Form 740NP–WH must be checked to indicate that it is a composite return, and a Form PTE–WH must be completed for each of the electing nonresident individual partners, members or shareholders. The composite return box on each Form PTE–WH must be checked to indicate that it is part of a composite return. Form 740NP–WH and Copy A of Form PTE–WH shall be mailed to the Kentucky Department of Revenue with payment of tax due by the 15th day of the fourth month following the close of the pass-through entity’s taxable year. Also, Copy B and C of Form PTE–WH shall be provided to the partners, members or shareholders included in the composite return.

For taxable years beginning on or after January 1, 2012, a pass-through entity filing a composite return shall make estimated tax payments if required by the provisions of KRS 141.206(6). If the pass-through entity is required to make estimated tax payments for taxable years beginning on or after January 1, 2012, use Form 740NP-WH-ES (Kentucky Estimated Tax Vouchers).

Substitute Forms—Any form to be used in lieu of an official Department of Revenue form must be submitted to the department for prior approval.

Required Forms and Information—An S corporation must enter all applicable information on Form 720S, attach a schedule for each line item or line item instruction which states “attach schedule,” and attach the following forms or schedules, if applicable.

Kentucky Forms and Schedules


1. S Corporation Income Tax Return (Form 720S)
2. Kentucky Shareholder’s Share of Income, Credits, Deductions, Etc.—Schedule K-1 (Form 720S)
3. Apportionment and Allocation (Schedule A)
4. Apportionment and Allocation—Continuation Sheet (Schedule A-C)
5. Limited Liability Entity Tax (Schedule LLET)
6. Limited Liability Entity Tax—Continuation Sheet (Schedule LLET-C)
7. Application for Filing Extension (Form 41A720SL)
8. Tax Credit Summary Schedule (Schedule TCS)
9. Other Additions And Subtractions To/From Federal Ordinary Income (Schedule O-PTE)

Required Federal Forms and Schedules

All S corporations **must** provide a copy of the following federal forms submitted to the Internal Revenue Service:

1. Form 1120S, all pages
2. Form 1125-A—Cost of Goods Sold
3. Form 4797—Sales of Business Property
4. Schedule D—Capital Gains and Losses
5. Form 5884—Work Opportunity Credit
6. Schedules for items on Form 1120S, Schedule L, which state, “attach schedule.”
7. Form 4562—Depreciation and Amortization
8. Form 8825—Rental Real Estate Income and Expenses of a Partnership or an S Corporation

Electronic Funds Transfer (EFT)—LLET estimated tax payments are not permitted by EFT. The Department of Revenue is accepting electronically filed Corporation/LLET income tax estimated tax voucher payments **only** for corporation income tax. Before filing by EFT, the corporation must have a valid six-digit Kentucky Corporation/LLET Account Number and have registered with the Department of Revenue to file EFT. Using an incorrect account number, such as an account number for withholding or sales and use tax, will result in the payment being credited to another corporation’s account. For more information contact the Department of Revenue at 1-800-839-4137 or (502) 564-6020. The EFT registration form is available at www.revenue.ky.gov. See E-File & E-Payment Options (click on KY E-Tax). The direct link is www.revenue.ky.gov/etax.htm.

 **EFT is not available for a corporation’s LLET estimated tax payments, return payment or extension payment.**

Accounting Procedures—Kentucky income tax law requires an S corporation to report income on the same calendar or fiscal year and to use the same methods of accounting required for federal income tax purposes. Any federally approved change in accounting periods or methods must be reported to the Department of Revenue. Attach a copy of the federal approval to the return when filed. **KRS 141.140**

Mailing/Payment—If including payments for other taxes in addition to corporation income tax or LLET, **send a separate check or money order for each type of tax.** Mail the Kentucky S Corporation Income Tax and LLET Return to the **Kentucky Department of Revenue, Frankfort, KY 40620.** Make the check(s) payable to the **Kentucky State Treasurer.**

Filing/Payment Date—An S corporation return must be filed and payment must be made on or before the 15th day of the fourth month following the close of the taxable year.

If the filing/payment date falls on a Saturday, Sunday or a legal holiday, the filing/payment date is deemed to be on the next business day. **KRS 446.030(1)(a)**

Extensions—An extension of time to file an S Corporation Income Tax and LLET Return may be obtained by either making a specific request to the Department of Revenue or attaching a copy of the federal extension to the return when filed. **A copy of the federal extension submitted after the return is filed does not constitute a valid extension, and late filing penalties will be assessed.** If an S corporation is making a payment with its extension, Kentucky Form 41A720SL must be used. For further information, see the instructions for Form 41A720SL. **103 KAR 15:050**

NOTE: An extension of time to file a return does not extend the date for payment of tax.

S Corporation Estimated Taxes

The Corporation Income/Limited Liability Entity Tax Estimated Tax Voucher, Form 720-ES, is used to submit estimated tax payments for corporation income tax and LLET. See **Electronic Funds Transfer (EFT)** on this page. If the S corporation is required to make estimated tax payments but did not receive Form 720-ES, contact the Department of Revenue at (502) 564-3658 or visit the Web site at www.revenue.ky.gov.

NOTE: See www.revenue.ky.gov for information on the 2012 estimated tax payments.

Estimated Tax Payments—An S corporation must make estimated tax installments if its combined tax liability under KRS 141.040 and 141.0401 can reasonably be expected to exceed \$5,000. Estimated tax installments are required as follows:

If the estimated tax is reasonably expected to exceed \$5,000 before the 2nd day of the 6th month, 50% of the estimated tax must be paid by 15th day of the 6th month, 25% by the 15th day of the 9th month, and 25% by the 15th day the 12th month.

If the estimated tax is reasonably expected to exceed \$5,000 after the 1st day of the 6th month and before the 2nd day of the 9th month, 75% of the estimated tax must be paid by the 15th day of the 9th month, and 25% by the 15th day the 12th month.

If the estimated tax is reasonably expected to exceed \$5,000 after the 1st day of the 9th month, 100% of the estimated tax must be paid by the 15th day the 12th month.

Safe harbor: An S corporation can satisfy its declaration requirement if its estimated tax payments are equal to the combined tax liability under KRS 141.040 and 141.0401 for the prior tax year, and its combined tax liability for the prior tax year was equal to or less than \$25,000. If the estimated tax is based on the S corporation's combined tax liability for the prior tax year, 50% of the estimated tax must be paid by 15th day of the 6th month, 25% by the 15th day of the 9th month, and 25% by the 15th day the 12th month.

Interest: Failure to pay estimated tax installments on or before the due date prescribed by KRS 141.042 and 141.044 shall result in an assessment of interest on the late payment or underpayment. The interest due on any late payment or underpayment shall be at the rate provided by KRS 131.183(1). **KRS 141.042(4) and KRS 141.985**

Penalty: Failure to pay estimated tax installments equal to the amount determined by subtracting \$5,000 from 70% of the total income tax liability imposed by KRS 141.040 as computed by the taxpayer on the return filed for the tax year will result in an underpayment penalty of 10% of the underpayment. The penalty will not apply, if the estimated tax installments are equal to the income tax liability imposed by KRS 141.040 for the prior tax year, and the income tax liability imposed by KRS 141.040 for the prior year was equal to or less than \$25,000. **KRS 131.180(3) and KRS 141.990(3)**

Other Information

Amended Return—To correct Form 720S as originally filed, file an amended Form 720S and check the appropriate box on page 1. If the amended return results in a change in income or a change in the distribution of any income or other information provided to shareholders, an amended Schedule K-1 (Form 720S) must also be filed with the amended Form 720S and a copy given to each shareholder. Check Item E(2) on each Schedule K-1 to indicate that it is an amended Schedule K-1.

Records Retention—The Department of Revenue deems acceptable virtually any records retention system which results in an essentially unalterable method of records storage and retrieval, provided: (a) authorized Department of Revenue personnel are granted access, including any specialized equipment; (b) taxpayer maintains adequate back-up; and (c) taxpayer maintains documentation to verify the retention system is accurate and complete.

Internal Revenue Service Audit Adjustments—An S corporation which has received final adjustments resulting from Internal Revenue Service audits must submit a copy of the "final determination of the federal audit" within 30 days of the conclusion of the federal audit. Use Form 720S for reporting federal audit adjustments and check the Amended Return box.

Interest—Interest at the tax interest rate is applied to corporation income tax and LLET liabilities not paid by the date prescribed by law for filing the return (determined without regard to extensions thereof). The tax interest rate for 2012 is available online at www.revenue.ky.gov, or you may contact the Department of Revenue at (502) 564-8139.

Penalties

Failure to file a Kentucky S Corporation Income Tax and LLET Return by the filing date including extensions—2 percent of

the tax due for each 30 days or fraction thereof that the return is late (maximum 20 percent). The minimum penalty is \$10 for each tax. **KRS 131.180(1)**

Jeopardy Fee—A \$100 minimum penalty on all nonfiled returns, when the taxpayer fails to file a return or provide information after being requested to do so by the Department of Revenue. **KRS 131.150(2)**

Failure to pay income tax and/or LLET by the payment date—2 percent of the tax due for each 30 days or fraction thereof that the payment is overdue (maximum 20 percent). The minimum penalty is \$10 for each tax. **KRS 131.180(2)**

Late payment or underpayment of estimated tax—10 percent of the late payment or underpayment. The minimum penalty is \$25. **KRS 131.180(3)**

Failure or refusal to file a Kentucky S Corporation Income Tax and LLET Return or furnish information requested in writing—5 percent of the tax assessed for each 30 days or fraction thereof that the return is not filed or the information is not submitted (maximum 50 percent). The minimum penalty is \$100. **KRS 131.180(4)**

Negligence—10 percent of the tax assessed. **KRS 131.180(7)**

Fraud—50 percent of the tax assessed. **KRS 131.180(8)**

Cost of Collection Fees

- (a) 25 percent on all taxes which become due and owing for any reporting period, regardless of when due. These collection fees are in addition to all other penalties provided by law. **KRS 131.440(1)(a)**
- (b) 25 percent on all taxes assessed and collected by the Department of Revenue for taxable periods ending before December 1, 2001. **KRS 131.440(1)(b)**
- (c) 50 percent of any tax deficiency assessed after the amnesty period for nonfiled returns eligible for amnesty. **KRS 131.440(1)(c)**

FORM 720S—SPECIFIC INSTRUCTIONS

Period Covered—File the 2011 return for calendar year 2011 and fiscal years that begin in 2011. For a fiscal year, fill in the taxable period beginning and ending at the top of Form 720S.

All S corporations must enter Taxable Year Ending at the top right of Form 720S and supporting forms and schedules to indicate the ending month and year for which the return is filed.

- A calendar year is a period from January 1 through December 31 each year. This would be entered as:

| 2 | |
Mo. Yr.

- A fiscal year is 12 consecutive months ending on the last day of any month except December. A fiscal year ending January 31, 2012, would be entered as:

$$\frac{01}{\text{Mo.}} / \frac{12}{\text{Yr.}}$$

- A 52/53-week year is a fiscal year that varies between 52 and 53 weeks. Example: A 52/53-week year ending the first week of January 2012, would be entered as:

$$\frac{12}{\text{Mo.}} / \frac{11}{\text{Yr.}}$$

Failure to properly reflect the **Taxable Year Ending** may result in delinquency notices or billings for failure to file.

Item A—Enter the six-digit Kentucky Corporation/LLET Account Number on the applicable line at the top of each form and schedule and on all checks and correspondence. This number was included in correspondence received from the Department of Revenue at the time of registration. If the account number is not known, telephone (502) 564-8139.

Item B—Check the box indicating the method used in determining the amount of LLET due on the Schedule LLET, Section D, line 1.

LLET Nonfiling Status Code—Return Not Required

If the S corporation is not required to file an LLET return, enter one of the following two-digit codes in the space provided.

REASON CODE	Reason
10	A public service corporation subject to tax under KRS 136.120.
12	A property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390.
13	An alcohol production facility as defined in KRS 247.910.
18	A personal service corporation as defined in Section 269A(b)(1) of the Internal Revenue Code.
21	A qualified investment pass-through entity as defined in KRS 141.206(15).

Item C—Income Tax Nonfiling Status Code—Return Not Required

If the S corporation is not required to file an income tax return, enter the following two-digit code in the space provided.

REASON CODE	Reason
22	This return contains only the LLET as the corporation is exempt from income tax as provided by Public Law 86-272.

Item D—Enter the S corporation’s federal identification number. See federal Publication 583 if the corporation has not obtained this number.

Name and Address—Print or type the corporation’s name as set forth in the charter. For the address, include the suite, room or other unit number after the street address. If the U.S. Postal Service does not deliver mail to the street address and the corporation has a P.O. Box, show the box number instead of the street address.

Telephone Number—Enter the business telephone number of the principal officer or chief accounting officer signing this return.

State and Date of Incorporation—Enter the state and date of incorporation of the corporation filing this return.

Principal Business Activity in Kentucky—Enter the principal business activity of the corporation filing this return.

North American Industrial Classification System (NAICS)—Enter your six-digit NAICS code. To view a complete listing of NAICS codes, visit the United States Census Bureau at www.census.gov.

Item E—Check the applicable boxes:

- (a) *Qualified Investment Pass-through Entity*—Check the box to indicate the S corporation is a qualified investment pass-through entity as provided by KRS 141.206(15)(a).
- (b) *LLC*—Check this box if the S corporation is organized as a limited liability company (LLC).
- (c) *Initial Return*—Check this box if this is the corporation’s first time filing an S corporation income tax return in Kentucky. Complete questions 1, 2 and 3 on Schedule Q—Kentucky S Corporation Questionnaire.
- (d) *Final Return*—Check this box if this is the S corporation’s final return. The S corporation has dissolved or withdrawn. Submit an explanation.
- (e) *Short-period Return*—Check this box and submit an explanation for a short-period return that is not an initial return.
- (f) *Amended Return*—Check this box if this is an amended return. Attach statement giving explanation of changes to net income, apportionment factor and/or taxes.
- (g) *Change of Name*—Check this box if the corporation has changed its name.
- (h) *Change of Address*—Check this box if the corporation has changed its address.
- (i) *Change of Accounting Period*—Check this box if the corporation has changed its accounting period. Also complete Item 4 on Schedule Q—Kentucky S Corporation Questionnaire.

Item F—Enter the number of shareholders on the first line, and enter the number of QSSSs included on this return on the second line.

PART I—ORDINARY INCOME (LOSS) COMPUTATION

Line 1—Enter the amount from federal Form 1120S, Line 21, ordinary income (loss) from trade or business activities. **Attach Form 1120S, all pages.**

Additions to Federal Ordinary Income—Lines 2, 3, 4 and 5 itemize items of additional income or unallowed deductions which are differences between federal ordinary income and Kentucky ordinary income.

Line 2—Enter state taxes measured in whole or in part by gross or net income. "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States or any foreign country or political subdivision thereof. Attach a schedule reflecting the total taxes deducted on federal Form 1120S. **KRS 141.010(11)(d)**

Line 3—Enter federal depreciation (do not include Section 179 deduction). See instructions on page 3 regarding depreciation and Section 179 deduction. If a federal Form 4562 is required to be filed for federal income tax purposes, a copy must be attached.

Line 4—Enter related party and intangible expenses prohibited by KRS 141.205.

Line 5—Enter the amount from Schedule O–PTE, Part I, Line 5.

Line 6—Enter the total of Lines 1, 2, 3, 4 and 5.

Subtractions from Federal Ordinary Income—Lines 7 through 9 itemize items of additional deductions allowed which are differences between federal ordinary income and Kentucky ordinary income.

Line 7—Enter the amount of the work opportunity credit reflected on federal Form 5884. For Kentucky purposes, the S corporation may deduct the total amount of salaries and wages paid or incurred for the taxable year. **This adjustment does not apply for other federal tax credits.**

Line 8—Enter Kentucky depreciation (do not include Section 179 deduction). See instructions on page 3 regarding depreciation and Section 179 deduction differences, and if applicable, Kentucky Form 4562 must be attached.

Line 9—Enter the amount from Schedule O–PTE, Part II, Line 9.

Line 10—Subtract Lines 7, 8 and 9 from Line 6.

PART II – LLET COMPUTATION

Line 1—Enter the amount from Schedule LLET, Section D, Line 1. An S corporation must use Schedule LLET(K), Limited Liability Entity Tax (For a Limited Liability Pass-through Entity with Economic Development Project(s)), if the S corporation has one or more projects under the Kentucky Rural Economic Development Act (KREDA), Kentucky Industrial Development Act (KIDA), Kentucky Economic Opportunity Zone Act (KEOZ), Kentucky Jobs Retention Agreement (KJRA), Kentucky Industrial Revitalization Act (KIRA), Kentucky Jobs Development Act (KJDA), Kentucky Business Investment Program (KBI), Kentucky Reinvestment Act (KRA) and Incentives for Energy Independence Act (IEIA).

Line 2—Enter the recycling/composting equipment LLET Credit recapture amount from Schedule RC–R, Line 12. **Attach Schedule RC–R, Recycling or Composting Equipment Tax Credit Recapture.**

Line 3—Enter the total of Lines 1 and 2.

Line 4—Enter the nonrefundable LLET credit from Kentucky Schedule(s) K–1 of which the S corporation is a partner or member. **Copies of Kentucky Schedule(s) K–1 must be attached to the S corporation return in order to claim the credit.**

Line 5—Enter the total tax credits from Schedule TCS, Part III, Column E, Line 1.

Line 6—Enter the greater of Line 3 less Lines 4 and 5, or \$175.

Line 7—Enter the total estimated LLET payments made for the taxable year. Do not include the amount credited from the prior year.

Line 8—Enter the refundable certified rehabilitation tax credit (attach the Kentucky Heritage Council certification(s) or Kentucky Schedule(s) K–1 (Form 765–GP)).

Line 9—Enter the refundable film industry tax credit (attach the Kentucky Film Office certification(s) or Kentucky Schedule(s) K–1 (Form 765–GP)).

Line 10—Enter the amount of LLET paid with Form 41A720SL, Application for Six–Month Extension of Time to File Kentucky Corporation or Limited Liability Pass–Through Entity Return.

Line 11—Enter the amount credited to 2011 LLET from Form 720S, Part II, Line 16 of the 2010 return.

Line 12—Enter the 2011 income tax overpayment from Part III, Line 11 credited to the 2011 LLET.

Line 13—If Line 6 is greater than the total of Lines 7 through 12, enter the difference on this line and enter the amount in the Tax Payment Summary.

Line 14—If Line 6 is less than the total of Lines 7 through 12, enter the difference on this line.

Line 15—Enter the portion of Line 14 to be credited to the 2011 income tax. Enter the amount on this line and on Part III, Line 8.

Line 16—Enter the portion of Line 14 to be credited to 2012 LLET.

Line 17—Enter the portion of Line 14 to be refunded (Line 14 less Lines 15 and 16).

PART III – INCOME TAX COMPUTATION

Line 1—Enter tax from the Excess Net Passive Income Tax Worksheet, Line 13. (See instructions and worksheet on page 14.)

If the corporation has accumulated earnings and profits (AE&P) at the close of its tax year, has passive investment income for the tax year that is in excess of 25% of gross receipts, and has excess passive income, the corporation must pay a tax on the

excess net passive income as provided by KRS 141.040(14)(c). Complete Lines 1 through 3 and Line 9 of the worksheet on page 14 to make this determination. If Line 2 is greater than Line 3 and the corporation has taxable income (see instructions for Line 9 of worksheet), it must pay the tax. **Attach completed worksheet to the return.**

Line 2—Enter the built-in gains tax from the Built-In Gains Tax Worksheet, Line 8. **Attach completed worksheet to the return.** (See instructions and worksheet on page 14.)

If the corporation for the taxable year has built-in gains as provided by Section 1374 of the Internal Revenue Code, the corporation must pay a built-in gains tax as provided by KRS 141.040(14)(c).

Section 1374 of the Internal Revenue Code provides that the built-in gains tax may apply to the following S corporations: (i) An S corporation that was a C corporation before it elected to be an S corporation; or (ii) An S corporation that acquired an asset with a basis determined (in whole or in part) by reference to its basis (or the basis of any other property) in the hands of a C corporation as provided by Section 1374(d)(8) of the Internal Revenue Code.

An S corporation may owe tax if it has net recognized built-in gain during the applicable recognition period. The applicable recognition period is the ten (10) year period beginning: (i) For an asset held when the S corporation was a C corporation, on the first day of the first tax year for which the corporation is an S corporation; or (ii) For an asset with a basis determined by reference to its basis (or the basis of any other property) in the hands of the C corporation, on the date the asset was acquired by the S corporation.

A corporation must compute the built-in gains tax separately for the group of assets it held at the time its S election became effective and for each group of assets it acquired from a C corporation with the basis determined (in whole or in part) by reference to the basis of the asset (or any other property) in hands of the C corporation. For details, see Section 1.1374-8 of the Treasury Regulations.

Line 3—Enter the tax installment on LIFO recapture. The first installment is paid on the C corporation's final return, and the remaining three installments are paid on the S corporation's first three tax returns. **Attach a schedule showing the amounts and dates of the installments paid by the corporation.**

Line 4—Enter the total of Lines 1, 2 and 3.

Line 5—Enter the total of the estimated income tax payments made for the taxable year. Do not include the amount credited from the prior year. Check the box if Form 2220-K is attached.

Line 6—Enter the amount of income tax paid with Form 41A720SL, Application for Six-Month Extension of Time to File Kentucky Corporation or Limited Liability Pass-Through Entity Return.

Line 7—Enter the amount credited to the 2011 income tax from Form 720S, Section III, Line 12 of the 2010 return.

Line 8—Enter the 2011 LLET overpayment credited to the 2011 income tax from Part II, Line 15.

Line 9—If Line 4 is greater than the total of Lines 5 through 8, enter the difference on this line and enter the amount on the Tax Payment Summary.

Line 10—If Line 4 is less than the total of Lines 5 through 8, enter the difference on this line.

Line 11—Enter the portion of Line 10 to be credited to the 2011 LLET. Enter the amount on this line and on Part II, Line 12.

Line 12—Enter the portion of Line 10 to be credited to 2012 corporation income tax.

Line 13—Enter the portion of Line 10 to be refunded (Line 10 less Lines 11 and 12).

SCHEDULE K (FORM 720S)

General Instructions—Complete all applicable lines entering the total pro rata share amount for each item listed. Federal instructions for Form 1120S and federal Schedule K provide additional information which will assist the S corporation in completing Schedule K, Form 720S.

An S corporation must use Form 41A720S(K), Kentucky Schedule K For S Corporations With Economic Development Project(s), if the S Corporation has one or more projects under the Kentucky Rural Economic Development Act (KREDA), Kentucky Industrial Development Act (KIDA), Kentucky Economic Opportunity Zone Act (KEOZ), Kentucky Jobs Retention Agreement (KJRA), Kentucky Industrial Revitalization Act (KIRA), Kentucky Jobs Development Act (KJDA), Kentucky Business Investment Program (KBI), Kentucky Reinvestment Act (KRA) and Incentives for Energy Independence Act (IEIA).

NOTE: Banks and savings and loan associations see special instructions under Tax Treatment of S Corporation and Shareholder(s) on page 4 of these instructions.

Section I—Income (Loss) and Deductions

Line 1—Enter Kentucky ordinary income (loss) from Form 720S, Part I, Line 10.

Line 2—Enter net income (loss) from rental real estate activities reported on federal Schedule K, Form 1120S, adjusted to reflect any differences in Kentucky and federal income tax laws.

Line 3(a)—Enter the gross income from other rental activities reported on federal Schedule K, Form 1120S.

Line 3(b)—Enter the expenses from other rental activities reported on federal Schedule K, Form 1120S, adjusted to reflect any differences in Kentucky and federal income tax laws.

Line 3(c)—Enter the difference of Line 3(a) and Line 3(b).

Line 4(a)—Enter interest income from federal Schedule K, Form 1120S, adjusted to exclude tax-exempt U.S. government interest, if any, and to include interest income from obligations of states other than Kentucky and their political subdivisions.

Lines 4(b) and 4(c)—Enter the amount of dividend and royalty income reported on federal Schedule K, Form 1120S.

Line 4(d)—See page 3 of the 2011 Form 720S instructions regarding **differences in gain or loss from disposition of assets**, and if applicable, enter the amount from Line 6 of the Kentucky Schedule D that is portfolio income. Report any gain or loss that is not portfolio income on Line 6, Schedule K, Form 720S. **Kentucky Schedule D must be attached to Form 720S.** Otherwise, enter the amount from Line 6 of the federal Schedule D (Form 1120S) that is portfolio income.

Line 4(e)—See page 3 of the 2011 Form 720S instructions regarding **differences in gain or loss from disposition of assets**, and if applicable, enter the amount from Line 13 of the Kentucky Schedule D that is portfolio income. Report any gain or loss that is not portfolio income on Line 6, Schedule K, Form 720S. **Kentucky Schedule D must be attached to Form 720S.** Otherwise, enter the amount from Line 13 of the federal Schedule D (Form 1120S) that is portfolio income.

Line 4(f)—Enter any other portfolio income not reported on Lines 4(a) through 4(e), Schedule K, Form 720S.

Line 5—See page 3 of the 2011 Form 720S instructions regarding **differences in gain or loss from disposition of assets**. If applicable, enter the amount from Line 7 of the Kentucky Form 4797, and **Kentucky Form 4797 must be attached to Form 720S.** Otherwise, enter net gain (loss) under Section 1231 from federal Form 4797. Do not include net gains (losses) from involuntary conversions due to casualties or thefts on this line. Instead, report them on Line 6.

Line 6—Enter all other items of income (loss) of the S corporation not included on Lines 1 through 5. See federal instructions for Schedule K, Form 1120S.

Line 7—Enter total contributions paid by the S corporation during its taxable year and attach a schedule showing separately the contributions subject to the 50 percent, 30 percent and 20 percent limitations. These percentage limitations must be applied to the Kentucky amounts rather than the federal amounts.

Also, enter the amount of deduction allowable from Schedule HH for the value of leasehold interest of property donated for living quarters for a homeless family. The ordinary charitable contribution deduction must be reduced by any amount attributable to property on which this deduction is taken.

Line 8—See page 3 of the 2011 Form 720S instructions regarding **depreciation and Section 179 deduction differences**, and if applicable, include the amount from Line 12 of the Kentucky Form 4562. **Kentucky Form 4562 must be attached.** Otherwise, enter Section 179 deduction from federal Form 4562.

Line 9—Enter the expenses related to portfolio income reported on federal Schedule K, Form 1120S, adjusted to exclude expenses related to tax-exempt interest income and other exempt income.

Line 10—Enter any other deductions of the S corporation not included on Lines 7, 8 and 9. See federal instructions for Schedule K, Form 1120S.

Line 11(a)—Enter the S corporation's deductible interest expense allocable to debt on property held for investment purposes. Property held for investment purposes includes property that produces investment income (interest, dividends, annuities, royalties, etc.). The total amount entered

should equal the amount of interest expense reported on federal Schedule K, Form 1120S, adjusted to exclude any interest expense on debts incurred to purchase or carry investment property producing, or held for the production of, U.S. government interest income.

Lines 11(b)(1) and (b)(2)—Enter only the investment income included on Lines 4(a), 4(b), 4(c) and 4(f), Schedule K, Form 720S, and only the investment expenses related thereto included on Line 9, Schedule K, Form 720S. See federal instructions for Schedule K, Form 1120S.

Line 12—Enter the Kentucky Small Business Investment Credit Program (KSBIC) tax credit as provided by KRS 141.384 and attach a copy of the Kentucky Economic Development Finance Authority notification.

Line 13—Enter the Skills Training Investment Credit Act (STICA) tax credit as provided by KRS 141.405 and attach a copy of the Bluegrass State Skills Corporation certification(s).

Line 14—Enter the Certified Rehabilitation Tax Credit as provided by KRS 171.397 and attach a copy of the Kentucky Heritage Council certification(s).

Line 15—Enter the Kentucky Unemployment Tax Credit as provided by KRS 141.065 and attach Kentucky Schedule UTC (Form 42A740-UTC).

Line 16—Enter the Recycling/Composting Equipment Tax Credit as provided by KRS 141.390 and attach Kentucky Schedule RC (Form 41A720RC).

Line 17—Enter the Kentucky Investment Fund Tax Credit as provided by KRS 154.20–258 and attach a copy of the notification from Kentucky Economic Development Finance Authority (KEDFA) reflecting the amount of credit granted and the year in which the credit may first be claimed.

Line 18—Enter the Coal Incentive Tax Credit for electric power generation as provided by KRS 141.0405 and attach Kentucky Schedule CI (Form 41A720-CI).

Line 19—Enter the Qualified Research Facility Tax Credit as provided by KRS 141.395 and attach Kentucky Schedule QR (Form 41A720QR).

Line 20—Enter the GED Incentive Tax Credit as provided by KRS 151B.127 and attach GED-Incentive Program Final Report (Form DAEL-31) for each employee that completed a learning contract during the year.

Line 21—Enter the Voluntary Environmental Remediation Tax Credit as provided by KRS 141.418 and attach Kentucky Schedule VERB (Form 41A720VERB).

Line 22—Enter the Biodiesel Tax Credit as provided by KRS 141.424 and attach Kentucky Schedule BIO (Form 41A720BIO).

Line 23—Enter the Environmental Stewardship Tax Credit as provided by KRS 141.430 and attach Kentucky Schedule KESA (Form 41A720KESA).

Line 24—Enter the Clean Coal Incentive Tax Credit as provided by KRS 141.428 and attach Kentucky Schedule CCI (Form 41A720-CCI).

Line 25—Enter the Ethanol Tax Credit as provided by KRS 141.4242 and attach Kentucky Schedule ETH (Form 41A720ETH).

Line 26—Enter the Cellulosic Ethanol Tax Credit as provided by KRS 141.4244 and attach Kentucky Schedule CELL (Form 41A720CELL).

Line 27—Enter the Energy Efficiency Products Tax Credit from Form 5695–K, Line 6 and attach Form 5695–K.

Line 28—Enter the Energy Efficiency Products Tax Credit from Form 5695–K, Line 12 and attach Form 5695–K.

Line 29—Enter the Energy Efficiency Products Tax Credit from Form 5695–K, Line 18 and attach Form 5695–K.

Line 30—Enter the Energy Efficiency Products Tax Credit from Form 5695–K, Line 36 and attach Form 5695–K.

Line 31—Enter the Energy Efficiency Products Tax Credit from Form 5695–K, Line 36 and attach Form 5695–K.

Line 32—Enter the Energy Efficiency Products Tax Credit from Form 5695–K, Line 51 and attach Form 5695–K.

Line 33—Enter the Energy Efficiency Products Tax Credit from Form 5695–K, Line 51 and attach Form 5695–K.

Line 34—Enter the Energy Efficiency Products Tax Credit from Form 5695–K, Line 57 and attach Form 5695–K.

Line 35—Enter the Energy Efficiency Products Tax Credit from Form 5695–K, Line 63 and attach Form 5695–K.

Line 36—Enter the Railroad Maintenance and Improvement Tax Credit as provided by KRS 141.385 and attach Schedule RR-I (Form 41A720 RR-I).

Line 37—Enter the Endow Kentucky Tax Credit as provided by KRS 141.438 and attach a copy of Kentucky Schedule ENDOW (Form 41A720-S86).

Line 38(a)—Enter the information provided on federal Schedule K, Form 1120S, Line 12c(1).

Line 38(b)—Enter the amount reported on federal Schedule K, Form 1120S, Line 12c(2).

Line 39—Enter the total amount of interest income of the S corporation from U.S. government bonds and securities and obligations of Kentucky and its political subdivisions.

Line 40—Enter the total amount of any other type of income of the S corporation on which the shareholder is exempt from Kentucky income tax.

Line 41—Enter the total amount of nondeductible expenses paid or incurred by the S corporation including, but not limited to, state taxes measured by gross/net income, expenses related to tax-exempt income, etc. Do not include a deduction reported elsewhere on Schedule K, Form 720S, capital expenditures or items the deductions for which are deferred to a later year.

Line 42—Enter the amount reported on federal Schedule K, Form 1120S, Line 16d adjusted to reflect any differences in Kentucky and federal income tax laws, such as depreciation.

Line 43—Attach schedules to report the S corporation's total income, expenses and other information applicable to items not included on Lines 1 through 11 and lines 38 through 42 including, but not limited to, any recapture of Section 179 deduction, gross income and other information relating to oil and gas well properties enabling the shareholders to figure the allowable depletion deduction, and any other information the shareholders need to prepare their Kentucky income tax returns. See federal instructions for Schedule K, Form 1120S, Line 12d.

Domestic Production Activities Deduction (DPAD)—A pass-through entity does not complete Form 8903–K, but attaches information to each partner's, member's or shareholder's Kentucky Schedule K–1 that will be needed to compute their DPAD. A pass-through entity shall attach the following information to each Kentucky Schedule K–1 to be used by the partner, member or shareholder to compute their DPAD for Kentucky income tax purposes:

If the partner, member or shareholder is an individual (includes estates and trusts), attach the following: (i) Domestic Production Gross Receipts (DPGR); (ii) Kentucky Domestic Production Gross Receipts (KDPGR); and (iii) Kentucky W–2 wages allocable to DPGR.

If the partner or member is a corporation or pass-through entity, and the partnership filing Form 765 or 765–GP was eligible and chose to figure Qualified Production Activities Income (QPAI) at the entity level, attach the following (i) QPAI, adjusted to reflect differences in Kentucky and federal income tax laws; and (ii) Kentucky W–2 wages allocable to DPGR.

If the partner or member is a corporation or pass-through entity, and the partnership filing Form 765 or 765–GP was not eligible or chose not to figure QPAI at the entity level, attach the following (i) DPGR (ii) Cost of goods sold allocable to DPGR, adjusted to reflect differences in Kentucky and federal income tax laws; (iii) Expenses allocable to DPGR, adjusted to reflect differences in Kentucky and federal income tax laws; and (iv) Kentucky W–2 wages allocable to DPGR.

See the instructions to Form 8903–K for definitions of: (i) Domestic Production Gross Receipts (DPGR); (ii) Kentucky Domestic Production Gross Receipts (KDPGR); and (iii) Qualified Production Activities Income (QPAI).

Line 44—Enter the amount reported on federal Schedule K, Form 1120S, Line 17c adjusted to reflect any differences in Kentucky and federal income tax laws, such as depreciation.

Section II—LLET Pass-through Items

Lines 1 through 8 of this section do not need to be completed unless the S corporation has a shareholder that is a single member individually owned limited liability company disregarded for federal tax purposes. In order to enter correct amounts on lines 1 through 8, Schedule A (Form 41A720A) must be completed and attached to the return.

Line 1—Enter the S corporation's Kentucky sales from Schedule A, Section I, Line 1.

Line 2—Enter the S corporation's total sales from Schedule A, Section I, Line 2.

Line 3—Enter the S corporation’s Kentucky property from Schedule A, Section I, Line 5.

Line 4—Enter the S corporation’s total property from Schedule A, Section I, Line 6.

Line 5—Enter the S corporation’s Kentucky payroll from Schedule A, Section I, Line 8.

Line 6—Enter the S corporation’s total payroll from Schedule A, Section I, Line 9.

Line 7—Enter the S corporation’s Kentucky gross profits from Schedule LLET, Section A, Column A, Line 5.

Line 8—Enter the S corporation’s total gross profits from Schedule LLET, Section A, Column B, Line 5.

Line 9—Enter the limited liability entity tax (LLET) nonrefundable credit from page 1, Part II, the total of Lines 4 and 6, less \$175.

Tax Payment Summary

The payment due with Form 720S must be itemized. Enter the amount of LLET payment due from Part II, Line 13 and/or corporation income tax payment due from Part III, Line 9 on the applicable tax payment lines in addition to the respective amounts of penalties and interest. Subtotal each and enter the total payment due on the Total Payment line.



Signature—Form 720S must be signed by an authorized corporate officer. Failure by corporate officers to sign the return, to complete all applicable lines on any required Kentucky form, to attach all applicable schedules including copies of federal forms, or to complete all information on the questionnaire will delay the processing of tax returns and may result in the assessment of penalties.

SCHEDULE K-1 (FORM 720S)—KENTUCKY SHAREHOLDER’S SHARE OF INCOME, CREDITS, DEDUCTIONS, ETC.

General Instructions

Schedule K-1 (Form 720S) shows each shareholder’s pro rata share of the S corporation’s income, deductions, credits, etc. On each Schedule K-1 (Form 720S) enter the names, addresses and identifying numbers of the shareholder and S corporation, and complete items A, B, C, D and E. All shareholders’ names, Social Security or identifying numbers and other shareholder information must be complete and legible. Schedule K-1 (Form 720S) must be completed and given to each shareholder with instructions on or before the day on which Form 720S is filed with the Department of Revenue.

A copy of each shareholder’s K-1 (Form 720S) must be attached to Form 720S filed with the Department of Revenue, and a copy kept as part of the S corporation’s records.

Photocopies of Schedule K-1 (Form 720S) may be used in lieu of the official schedule printed by the Department of Revenue, provided the photocopies are on bond paper of at least 16 pounds and are of good quality.

Specific Instructions

Federal instructions for Schedule K-1 (Form 1120S) explain the rules for allocating items of income (loss), deductions, credits, etc., to each shareholder. The total share items reported on all Schedules K-1, Column (b), Lines 1 through 44 must equal the amounts reported on Schedule K, Lines 1 through 44. The total share items reported on all Schedules K-1, Column (b), Lines 45 through 53 must equal the amounts reported on the comparable lines of Schedule K, Section II, Lines 1 through 9. Schedule K-1, Column (b), Lines 54 through 56 do not correspond with Schedule K.

Multiple Activities—If items of income, loss or deduction from more than one activity are reported on Lines 1, 2 or 3 of Schedule K-1 (Form 720S), the S corporation must provide information for each activity to its shareholders. See **Passive Activity Reporting Requirements** in the instructions for Schedule K-1 (Form 1120S) for details on the information to be provided on an attachment to Schedule K-1 (Form 720S) for each activity.

At-Risk Activities—If the S corporation is involved in one or more at-risk activities for which a loss is reported on Schedule K-1 (Form 720S), the S corporation must report information separately for each at-risk activity. See **Special Reporting Requirements for At-Risk Activities** in the federal instructions for Schedule K-1 (Form 1120S) for details on the information to be provided on an attachment to Schedule K-1 (Form 720S) for each at-risk activity.

Lines 1 through 53—Enter the shareholder’s total pro rata share of each item listed on Schedule K, Form 720S. **Do not multiply these amounts by the percentage entered on Item B(2).** Attach schedules showing separately the required information for each IRC Section 469 passive activity and each Section 465 at-risk activity. Other schedules are to be attached for line items where requested on Schedule K-1 (Form 720S).

Enter on attached schedules the supplemental information required to be reported separately to each shareholder for Lines 1 through 53 and any other information or items and amounts not included on Schedule K-1 (Form 720S) for which the shareholder needs to prepare a Kentucky income tax return including, but not limited to, any recapture of Section 179 deduction, gross income and other information relating to oil and gas well properties enabling the shareholder to figure the allowable depletion deduction, etc. See instructions for federal Schedule K-1 (Form 1120S), Line 17.

Lines 54 through 56—The amounts in Column (b) are to be entered by the shareholder, not the S corporation.

Instructions for Excess Net Passive Income Tax Worksheet:

1. Enter the gross receipts for the tax year. Also see Section 1362(d)(3)(B) of the Internal Revenue Code. Income on Line 1 is from total operations for the year and includes income from Form 720S, Part I as well as income reported separately on Schedule K.
2. Enter the passive investment income as defined in Section 1362(d)(3)(C) of the Internal Revenue Code. Deductions on Line 2 are from total operations for the year and include deductions from Form 720S, Part I as well as those reported separately on Schedule K. See Section 1375(b)(4) of the Internal Revenue Code for an exception regarding this line.
3. Enter 25% of the amount on Line 1 (If Line 2 is less than Line 3, stop here. You are not liable for this tax.)
4. Enter the amount of Line 2 less Line 3.
5. Enter deductions directly connected with the production of income on Line 2 (See Section 1375(b)(2) of the Internal Revenue Code). Deductions on Line 5 are from total operations for the year and include deductions from Form 720S, Part I as well as those reported separately on Schedule K. See Section 1375(b)(4) of the Internal Revenue Code for an exception regarding this line.
6. Enter the amount of Line 2 less Line 5. This is your Net Passive Income.
7. Enter the amount of Line 4 divided by the amount on Line 2.
8. Enter the amount of Line 6 multiplied by Line 7. This is your Excess Net Passive Income.
9. Enter taxable income as defined in Section 1.1374-1A(d) of the Treasury Regulations. Figure this income by completing Form 720, Part III, lines 1 through 18. Include the Form 720 computation with the worksheet computation you attach to Form 720S. You do not have to attach the schedules, etc., called for on Form 720. However, you may want to complete certain Form 720 schedules, such as Kentucky converted Schedule D, if you have capital gains or losses.
10. Enter the lesser of the amount from Line 8 or Line 9.
11. Enter 100% or if taxable in Kentucky and taxable in another state, the apportionment factor from Schedule A, Section I, Line 12.
12. Enter the amount on Line 10 multiplied by the percentage on Line 11.
13. Excess net passive income tax—enter 6% of Line 12. Enter here and on Form 720S, Part III, Line 1.

**Excess Net Passive Income Tax Worksheet
(Attach this Worksheet to Form 720S)**

1. Enter gross income receipts for the tax year as defined in IRC Section 1362(d)(3)(B)
2. Enter passive investment income as defined in IRC Section 1362(d)(3)(C)
3. Enter 25% of line 1 (If line 2 is less than line 3, stop here. You are not liable for the tax.).....
4. Enter line 2 less line 3 (This is your excess passive investment income.)
5. Enter deduction directly connected with the production of income on line 2 (see instructions).....
6. Enter line 2 less line 5 (This is your net passive income.)
7. Line 4 divided by the amount on line 2
8. Multiply line 6 by line 7 (This is your excess net passive income.)
9. Enter taxable income (see instructions).....
10. Enter the lesser of the amount on line 8 or line 9.....
11. Enter 100% or the apportionment factor from Schedule A, Section I, line 12
12. Multiply the amount on Line 10 by the percentage on line 11
13. Enter 6% of line 12 on this line and on Form 720S, Part III, line 1.....

Instructions for Built-in Gains Tax Worksheet:

1. Enter the amount that would be the taxable income of the corporation for the tax year if only recognized built-in gains (including any carryover of gain under Section 1374(d)(2)(B) of the Internal Revenue Code) and recognized built-in losses were taken into account.
2. Figure taxable income by completing Form 720, Part III, Lines 1 through 18. Follow the instructions for Form 720. Enter the amount from Form 720, Part III, Line 18 on Line 2 of the Built-in Gains Tax Worksheet.
3. Enter the lesser of the amount from Line 1 or Line 2. If for any year the amount on Line 1 exceeds the taxable amount on Line 2, the excess is treated as a recognized built-in gain in the succeeding tax year.
4. Enter the IRC Section 1374(b)(2) deduction. Generally, this is any net operating loss carryforward (to the extent of net capital gain included in recognized built-in-gain for the tax year) arising in tax years for which the corporation was a C corporation. See Section 1374(b)(2) of the Internal Revenue Code and Section 1.1374-5 of the Treasury Regulations.
5. Enter the amount of Line 3 less Line 4. If zero or less, enter zero here and on Line 8.
6. Enter 100% or the apportionment factor from the last C corporation return, Schedule A, Section I, Line 12.
7. Enter the amount on Line 5 multiplied by the percentage on Line 6.
8. Multiply the amount on Line 7 by 6% and enter the amount on this line and on Form 720S, Part III, Line 2, and attach computation to Form 720S.

**Built-in Gains Tax Worksheet
(Attach this Worksheet to Form 720S)**

1. Excess of recognized built-in gains over recognized built-in losses (see instructions).....
2. Taxable income (see instructions)
3. Net recognized built-in gains. Enter the lesser of Line 1 or Line 2
4. Section 1374(b)(2) deduction
5. Enter Line 3 less Line 4. If zero or less enter zero here and on Line 8
6. Enter 100% or the apportionment factor from the last C corporation return, Schedule A, Section I, Line 12.....
7. Multiply the amount on Line 5 by the percentage on Line 6, and enter the amount.....
8. Enter 6% of Line 7 on this line and on Form 720S, Part III, Line 2.....

Tax Credit Summary Schedule—Schedule TCS

Schedule TCS is used by corporations and limited liability pass-through entities to apply tax credits for entities subject to the corporation income tax imposed by KRS 141.040 and/or the limited liability entity tax (LLET) imposed by KRS 141.0401. The amount of tax credit against each tax can be different. *Taxpayer* as used in this section refers to corporations and limited liability pass-through entities.

Economic Development Tax Credits—This section is completed only if a limited liability pass-through entity has been approved for one of more of the credits authorized by the: (i) Metropolitan College Consortium Tax Credit (MCC – KRS 141.381); (ii) Kentucky Small Business Investment Credit Program (KSBIC – KRS 141.384); or (iii) Skills Training Investment Credit Act (STICA – KRS 154.12).

A limited liability pass-through entity shall not enter income or LLET tax credits on Schedule TCS from: (i) Kentucky Rural Economic Development Act (KREDA – KRS 154.22); (ii) Kentucky Industrial Development Act (KIDA – KRS 154.28); (iii) Kentucky Economic Opportunity Zone Act (KEOZ – KRS 154.23); (iv) Kentucky Jobs Retention Agreement (KJRA – KRS 154.25); (v) Kentucky Industrial Revitalization Act (KIRA – KRS 154.26); (vi) Kentucky Jobs Development Act (KJDA – KRS 154.24); (vii) Kentucky Business Investment Program (KBI – KRS 154.32); (viii) Kentucky Reinvestment Act (KRA – KRS 154.34); or (ix) Incentives for Energy Independence Act (IEIA – KRS 154.27).

A limited liability pass-through entity shall file Schedule KREDA-SP, Schedule KIDA-SP, Schedule KEOZ-SP, Schedule KJRA-SP, Schedule KIRA-SP, Schedule KJDA-SP, Schedule KBI-SP, Schedule KRA-SP or Schedule IEIA-SP to compute the tax credits for these programs.

To claim the STICA or MCC credit, a copy of the tax credit certification(s) received from Bluegrass State Skills Corporation reflecting the amount of credit awarded shall be attached to the tax return. The credit for either the STICA or MCC shall be claimed on the tax return filed for the taxable year during which the final authorizing resolution is adopted by Bluegrass State Skills Corporation. The STICA credit not used during the year in which the final authorizing resolution is adopted by Bluegrass State Skills Corporation may be carried forward three successive years; the MCC credit not used during the year in which the final authorizing resolution is adopted by Bluegrass State Skills Corporation may be carried forward to tax years ending before April 15, 2013. If a STICA or MCC credit is being carried forward from a prior year, attach a schedule reflecting the original credit available, the amount of the credit used each year and the balance of the credit.

To claim the KSBIC credit, a copy of the tax credit notification received from Kentucky Economic Development Finance Authority (KEDFA) reflecting the amount of credit awarded shall be attached to the tax return. The credit for the KSBIC shall be claimed on the tax return for the taxable year during which the credit was approved by KEDFA. The tax credit not used during the year of approval by KEDFA may be carried forward up to five years. If a KSBIC credit is being carried forward from a prior year, attach a schedule reflecting the original credit available, the amount of the credit used each year and the balance of the credit.

Economic development tax credits are allowed against the taxes imposed by KRS 141.020 or KRS 141.040 and KRS 141.0401.

Information regarding the approval process for these credits may be obtained from the Cabinet for Economic Development, Department for Financial Incentives (telephone: 502-564-4554) or Bluegrass State Skills Corporation (telephone: 502-564-2021).

Certified Rehabilitation Tax Credit—This credit is allowed only

if the taxpayer has been approved for the credit by the Kentucky Heritage Council. Credit is allowed against the taxes imposed by KRS 141.020, KRS 141.040, KRS 141.0401 and KRS 136.505 for qualified rehabilitation expenses on certified historic structures. Information regarding this credit is available at www.heritage.ky.gov. **KRS 171.397**

Unemployment Tax Credit—If a taxpayer has hired a Kentucky resident classified as unemployed for at least 60 days and the resident remains in the employ of the taxpayer for 180 consecutive days during the tax year (a qualified person), the taxpayer may be entitled to the unemployment tax credit against the taxes imposed by KRS 141.020, KRS 141.040 and KRS 141.0401. For each qualified person, a one-time nonrefundable credit of \$100 may be claimed. The period of unemployment must be certified by the Education and Workforce Development Cabinet, Department of Workforce Investment, Office of Employment and Training, Frankfort, KY, and a copy of the certification must be maintained by the taxpayer. For certification questions, call (502) 564-7456. Schedule UTC must be attached to the return claiming this credit. **KRS 141.065**

Recycling/Composting Tax Credit—A taxpayer, which purchases recycling and/or composting equipment to be used exclusively in Kentucky for recycling or composting post-consumer waste materials, may be entitled to a nonrefundable credit against the taxes imposed by KRS 141.020, KRS 141.040 and KRS 141.0401 in an amount equal to 50 percent of the installed cost of the equipment. Application for this credit must be made on Schedule RC, and a copy of the schedule reflecting the amount of credit approved by the Department of Revenue must be attached to the tax return on which the credit is claimed. The amount of this credit claimed for the tax year may not exceed 25 percent of the tax liability and cannot exceed 10 percent of the credit approved in the first year of eligibility.

For taxable years beginning after December 31, 2004, a taxpayer which purchases recycling and/or composting equipment to be used exclusively in Kentucky for recycling or composting post-consumer waste material that qualifies as a Major Recycling Project is entitled to a nonrefundable credit against the taxes imposed by KRS 141.020, KRS 141.040 and KRS 141.0401. The credit is an amount equal to 50 percent of the installed cost of the recycling or composting equipment limited to: 50 percent of the excess of the total of each tax liability over the baseline tax liability of the taxpayer or \$2,500,000. To qualify, the taxpayer must: (1) invest more than \$10,000,000 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 \$500,000,000. Application for this credit must be made on Schedule RC, and a copy of the schedule reflecting the amount of credit approved by the Department of Revenue must be attached to the tax return on which the credit is claimed. The credit is limited to a period of 10 years commencing with the approval of the recycling credit application.

A taxpayer is entitled to claim the recycling credits in KRS 141.390(2)(a) and (b), but cannot claim both for the same recycling and/or composting equipment. **KRS 141.390**

Coal Conversion Tax Credit—A corporation which converts boilers from other fuels to Kentucky coal or which substitutes Kentucky coal for other fuels in a boiler capable of burning coal and other fuels to produce energy for specific purposes may be entitled to a credit against the taxes imposed by KRS

141.040 and KRS 141.0401 equal to 4.5 percent of expenditures for Kentucky coal (less transportation costs). Unused portions of this credit may not be carried forward or back. Schedule CC must be attached to the tax return claiming this credit. **KRS 141.041**

Enterprise Zone Tax Credit—The last enterprise zone expired on December 31, 2007. Previous tax credit carryforwards are allowed for enterprise zones that previously expired. **Schedule EZC must be attached. KRS 154.45-090**

Kentucky Investment Fund Tax Credit—A taxpayer which makes a cash contribution to an investment fund approved by KEDFA in accordance with KRS 154.20–250 to 154.20–284 is entitled to a nonrefundable credit equal to 40 percent of the investor’s proportional ownership share of all qualified investments made by the investment fund and verified by the authority. The credit may be applied against the taxes imposed by KRS 141.020, KRS 141.040, KRS 141.0401, KRS 136.320, KRS 136.300, KRS 136.310, KRS 136.505 and KRS 304.3–270. **A copy of the notification from KEDFA reflecting the amount of credit granted and the year in which the credit may first be claimed must be attached to the tax return claiming this credit.**

The tax credit amount that may be claimed by an investor in any tax year shall not exceed 50 percent of the initial aggregate credit amount approved by the authority for the investment fund which is proportionally available to the investor. **Example:** *An investor with a 10 percent investment in a fund which has been approved for a total credit to all investors of \$400,000 is limited to \$20,000 maximum credit in any given year (\$400,000 x 10% x 50%).*

If the amount of credit that may be claimed in any tax year exceeds the tax liabilities, the excess credit may be carried forward, but the carryforward of any excess tax credit shall not increase the limitation that may be claimed in any tax year. Any credit not used in 15 years, including the year in which the credit may first be claimed, shall be lost.

Information regarding the approval process for these credits may be obtained from the Cabinet for Economic Development, Department of Financial Incentives at (502) 564–4554. **KRS 141.068**

Coal Incentive Tax Credit—Effective for tax returns filed after July 15, 2001, an electric power company or a company that owns and operates a coal-fired electric generating plant may be entitled to a coal incentive tax credit first against the taxes imposed by KRS 141.020, KRS 141.040 and KRS 141.0401 and then against tax imposed by KRS 136.120. Application for this credit is made on Schedule CI, Application for Coal Incentive Tax Credit, and a copy of the credit certificate issued by the Kentucky Department of Revenue must be attached to the tax return on which the credit is claimed. **KRS 141.0405**

Qualified Research Facility Tax Credit—A taxpayer is entitled to a credit against the taxes imposed by KRS 141.020, KRS 141.040 and KRS 141.0401 of 5 percent of the qualified costs of construction, remodeling, expanding and equipping facilities in Kentucky for “qualified research.” Any unused credit may be carried forward 10 years. Schedule QR, Qualified Research Facility Tax Credit, must be attached to the tax return on which this credit is claimed. Federal Form 6765, Credit for Increasing Research Activities, must also be attached if applicable. See instructions for Schedule QR for more information regarding this credit. **KRS 141.395**

GED Incentive Tax Credit—A taxpayer is entitled to a credit against the taxes imposed by KRS 141.020, KRS 141.040 and KRS 141.0401. The credit reflected on this line must equal the sum of the credits reflected on the attached GED–Incentive Program Final Reports. This credit may be claimed only in the year during which the learning contract was completed and unused portions

of the credit may not be carried forward or back. For information regarding the program, contact the Education and Workforce Development Cabinet, Kentucky Adult Education, Council on Postsecondary Education. The GED–Incentive Program Final Report (DAEL–31) for each employee that completed a learning contract during the tax year must be attached to the tax return claiming the credit. **KRS 151B.127**

Voluntary Environmental Remediation Tax Credit—The taxpayer must have an agreed order and be approved by the Energy and Environment Cabinet under the provisions of KRS 224.01–518. Maximum tax credit allowed to be claimed per taxable year is 25 percent of the approved credit. This credit may be claimed against the taxes imposed by KRS 141.020, KRS 141.040 and KRS 141.0401. For more information regarding credit for voluntary environmental remediation property, contact the Energy and Environment Cabinet at (502) 564–3350. Schedule VERB must be attached to the tax return claiming this credit. **KRS 141.418**

Biodiesel Tax Credit—The 2007 Second Extraordinary Session amended KRS 141.422 to include renewable diesel to be subject to the biodiesel tax credit. Producers and blenders of biodiesel and producers of renewable diesel are entitled to a tax credit against the taxes imposed by KRS 141.020, KRS 141.040 and KRS 141.0401. The taxpayer must file a claim for biodiesel credit with the Department of Revenue by January 15 each year for biodiesel produced or blended and the renewable diesel produced in the previous calendar year. The department shall issue a credit certification (Schedule BIO) to the taxpayer by April 15. The credit certification must be attached to the tax return claiming this credit. **KRS 141.423 and 103 KAR 15:140**

Kentucky Environmental Stewardship Tax Credit—For tax years beginning on or after January 1, 2006, an approved company may be entitled to a credit against the taxes imposed by KRS 141.020, KRS 141.040 or KRS 141.0401 on the income and the LLET of the approved company generated by or arising out of a project as determined under KRS 154.48–020. An “environmental stewardship product” means any new manufactured product or substantially improved existing manufactured product that has a lesser or reduced adverse effect on human health and the environment or provides for improvement to human health and the environment when compared with existing products or competing products that serve the same purpose. A company must have eligible costs of at least \$5 million and within six months after the activation date, the approved company compensates a minimum of 90 percent of its full-time employees whose jobs were created or retained with base hourly wages equal to either: (1) 75 percent of the average hourly wage for the commonwealth; or (2) 75 percent of the average hourly wage for the county in which the project is to be undertaken. The maximum amount of negotiated inducement that can be claimed by a company for any single tax year may be up to 25 percent of the authorized inducement. The agreement shall expire on the earlier of the date the approved company has received inducements equal to the approved costs of its project, or 10 years from the activation date. For more information, contact the Cabinet for Economic Development, Department of Financial Incentives at (502) 564–4554.

KRS 141.430 was amended to provide that for tax years beginning on or after June 4, 2010, the base tax year is reduced by 50 percent. The base tax year is the combined income tax and LLET for the first taxable year after December 31, 2005, that ends immediately prior to the activation date. If the base tax year is for a taxable year beginning before January 1, 2007, the LLET will not apply. **KRS 141.430**

Caution: An approved company under the Environmental Stewardship Act shall not be entitled to the recycling credit provided under the provisions of KRS 141.390 for equipment used in the production of an environmental stewardship project.

Clean Coal Incentive Tax Credit—Effective for tax years ending on or after December 31, 2006, a nonrefundable, nontransferable credit against taxes imposed by KRS 136.120, KRS 141.020, KRS 141.040 or KRS 141.0401 shall be allowed for a clean coal facility. As provided by KRS 141.428, a clean coal facility means an electric generation facility beginning commercial operation on or after January 1, 2005, at a cost greater than \$150 million that is located in the Commonwealth of Kentucky and is certified by the Energy and Environment Cabinet as reducing emissions of pollutants released during generation of electricity through the use of clean coal equipment and technologies. The amount of the credit shall be \$2 per ton of eligible coal purchased that is used to generate electric power at a certified clean coal facility, except that no credit shall be allowed if the eligible coal has been used to generate a credit under KRS 141.0405 for the taxpayer, parent or subsidiary. **KRS 141.428**

Ethanol Tax Credit—Producers of ethanol are entitled to a tax credit against the taxes imposed by KRS 141.020, KRS 141.040 and KRS 141.0401. The taxpayer must file a claim for ethanol credit with the Department of Revenue by January 15 each year for ethanol produced in the previous calendar year. The department shall issue a credit certification (Schedule ETH) to the taxpayer by April 15. The credit certification must be attached to the tax return claiming this credit. **KRS 141.4242 and 103 KAR 15:110**

Cellulosic Ethanol Tax Credit—Producers of cellulosic ethanol are entitled to a tax credit against the taxes imposed by KRS 141.020, KRS 141.040 and KRS 141.0401. The taxpayer must file a claim for ethanol credit with the Department of Revenue by January 15 each year for cellulosic ethanol produced in the previous calendar year. The department shall issue a credit certification (Schedule CELL) to the taxpayer by April 15. The credit certification must be attached to the tax return claiming this credit. **KRS 141.4244 and 103 KAR 15:120**

Energy Efficiency Products Tax Credit—A nonrefundable tax credit against the tax imposed under KRS 141.020 or 141.040 and KRS 141.0401 is allowed as follows:

(i) For a taxpayer's residence or single-family or multifamily residential rental unit, 30% of the installed cost of qualified insulation, qualified energy-efficient windows and storm doors, and qualified energy property that meets the performance, quality, and certification standards of and that would have been eligible for the federal credit for residential property expenditures under 26 U.S.C. § 25C, as it existed on December 31, 2007. The total credit is limited to \$500.

(ii) For a taxpayer's residence or single-family residential rental unit, 30% of the installed cost of an active solar space-heating system, passive solar space-heating system, combined active solar space-heating and water-heating system, solar water-heating system, and wind turbine or wind machine, or \$3 per watt of direct current of a solar photovoltaic system. The total credit is limited to \$500.

(iii) For a multifamily residential rental unit or commercial property, 30% of the installed cost of an active solar space-heating system, passive solar space-heating system, combined active solar space-heating and water-heating system, solar water-heating system, and wind turbine or wind machine, or \$3 per watt of direct current of a solar photovoltaic system. The total credit is limited to \$1,000.

(iv) For commercial property, 30% of the installed cost of an energy-efficient interior lighting system that meets the maximum reduction in lighting power density requirements for the federal energy-efficient commercial building deduction under 26 U.S.C. § 179D, as it existed on December 31, 2007. The total credit is limited to \$500.

(v) For commercial property, 30% of the installed cost of an

energy-efficient heating, cooling, ventilation, or hot water system that meets the requirements for the federal energy-efficient commercial building deduction under 26 U.S.C. § 179D, as it existed on December 31, 2007. The total credit is limited to \$500. **KRS 141.436**

ENERGY STAR Home or ENERGY STAR Manufactured Home Tax Credit—A nonrefundable tax credit against the tax imposed under KRS 141.040, and KRS 141.0401 is allowed if a taxpayer builds a new ENERGY STAR home located in the Commonwealth for use as a principal place of residence, or sells a new ENERGY STAR manufactured home to a buyer who uses that home as a principal place of residence in the Commonwealth. The tax credit shall equal: (a) \$800 if the taxpayer builds an ENERGY STAR home; or (b) \$400 if the taxpayer sells an ENERGY STAR manufactured home. The tax credit shall not apply if the tax credit has been previously taken by another taxpayer on the same ENERGY STAR home or ENERGY STAR manufactured home, or the taxpayer has taken the energy efficiency products tax credit. **KRS 141.437**

Railroad Maintenance and Improvement Tax Credit—For tax years beginning on or after January 1, 2010, an owner of any Class II railroad or Class III railroad located in Kentucky or 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, shall be entitled to a nonrefundable credit against taxes imposed by KRS 141.020 or 141.040 and KRS 141.0401 in an amount equal to fifty percent (50%) of the qualified expenditures paid or incurred 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.

The credit allowed shall not exceed the product of \$3,500 multiplied by the sum of: (i) 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 (ii) The number of miles of railroad track in Kentucky assigned 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. **KRS 141.385**

Railroad Expansion Tax Credit—For tax years beginning on or after January 1, 2010: (a) a corporation that owns fossil energy resources subject to tax under KRS 143.020 or 143A.020 or biomass resources and transports these resources using rail facilities; or (b) a railway company subject to tax under KRS 136.120 that serves a corporation that owns fossil energy resources subject to tax under KRS 143.020 or 143A.020 or biomass resources shall be entitled to a nonrefundable tax credit against taxes imposed under KRS 141.040 and 141.0401 equal to twenty-five percent (25%) of the expenditures paid or incurred by the corporation or railway company to expand or upgrade railroad track, including roadbeds, bridges, and related track structures, to accommodate the transport of fossil energy resources or biomass resources.

The credit amount approved for a calendar year for all taxpayers under KRS 141.386 shall be limited to \$1 million. If the total amount of approved credit exceeds \$1 million, the department shall determine the amount of credit each corporation and railroad company receives by multiplying \$1 million by a fraction, the numerator of which is the amount of approved credit for a corporation or railway company and the denominator of which is the total approved credit for all corporations and railway companies.

Each corporation or railway company eligible for the credit provided under this section shall file a railroad expansion tax credit claim on forms prescribed by the department by the fifteenth day of the first month following the close of the

preceding calendar year. The department shall determine the amount of the approved credit and issue a credit certificate to the corporation or railway company by the fifteenth day of the third month following the close of the calendar year. **KRS 141.386**

Endow Kentucky Tax Credit—A taxpayer making an endowment gift to a permanent endowment fund of a qualified community foundation, or county-specific component fund, or affiliate community foundation, which has been certified under KRS 147A.325, is entitled to a tax credit equal to twenty percent (20%) of the endowment gift, not to exceed \$10,000. The nonrefundable tax credit is allowed against the taxes imposed by KRS 141.020 or 141.040 and KRS 141.0401 and if not use in the year the tax credit is awarded may be carried forward for a period not to exceed five years. The department shall issue a credit certification (Schedule ENDOW) to a taxpayer upon receiving proof that the endowment gift was made to the approved community foundation as provided by KRS 141.438(7). Schedule ENDOW must be attached to the taxpayer’s tax return each year to claim the credit. A partner, member or shareholder of a pass-through entity shall attach a copy of Schedule K-1, Form 720S, 765 or 765-GP to the partner’s, member’s or shareholder’s tax return each year to claim the tax credit.

TANGIBLE PERSONAL PROPERTY TAXES—The listing period for tangible personal property is January 1 through May 15 of each year. Each taxpayer is responsible for reporting his tangible personalty subject to ad valorem taxation. The Tangible Personal Property Tax Return, Revenue Form 62A500, and instructions can be obtained from your local county property valuation administrator’s office or the Office of Property Valuation. You may also go to www.revenue.ky.gov to download these forms. A separate form must be filed for each location in Kentucky where you have tangible personal property.

**Kentucky Department of Revenue
Mission Statement**

As part of the Finance and Administration Cabinet, the mission of the Kentucky Department of Revenue is to administer tax laws, collect revenue, and provide services in a fair, courteous, and efficient manner for the benefit of the Commonwealth and its citizens.

* * * * *

The Kentucky Department of Revenue does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of services.

TAXPAYER ASSISTANCE

Forms:

Operations and Support Services Branches
501 High Street
Frankfort, KY 40601-2103
(502) 564-3658



Website: www.revenue.ky.gov
Email: Financerevenueformsandenvelopes@ky.gov

Information:

Division of Corporation Tax
Department of Revenue
501 High Street
Frankfort, KY 40601-2103
(502) 564-8139



KENTUCKY TAXPAYER SERVICE CENTERS

Information and forms are available from Kentucky Taxpayer Service Centers in the following cities.

Ashland, 134 Sixteenth Street, 41101-7670
(606) 920-2037

Bowling Green, 201 West Professional Park Court, 42104-3278
(270) 746-7470

Central Kentucky, 501 High Street, Frankfort, 40601-2103
(502) 564-4581 (*Taxpayer Assistance*)

Corbin, 15100 North US 25E, Suite 2, 40701-6188
(606) 528-3322

Hopkinsville, 181 Hammond Drive, 42240-7926
(270) 889-6521

Louisville, 600 West Cedar Street,
2nd Floor West, 40202-2310
(502) 595-4512

Northern Kentucky, Turfway Ridge Office Park
7310 Turfway Road, Suite 190, Florence, 41042-4871
(859) 371-9049

Owensboro, Corporate Center
401 Frederica Street, Building C, Suite 201, 42301-6295
(270) 687-7301

Paducah, Clark Business Complex, Suite G
2928 Park Avenue, 42001-4024
(270) 575-7148

Pikeville, Uniplex Center, Suite 203,
126 Trivette Drive, 41501-1275
(606) 433-7675



YOUR RIGHTS AS A KENTUCKY TAXPAYER

As part of the Finance and Administration Cabinet, the mission of the Kentucky Department of Revenue (DOR) is to administer tax laws, collect revenue, and provide services in a fair, courteous, and efficient manner for the benefit of the Commonwealth and its citizens.

As a Kentucky taxpayer, you have the right to expect the DOR to honor its mission and uphold your rights every time you contact or are contacted by the DOR.

Some Kentucky taxpayer rights are very specific, such as when and how to protest an assessment or the denial of a refund or credit. Others are more general.

The following is a summary of your rights and the DOR's responsibilities to you as a Kentucky taxpayer.

RIGHTS OF TAXPAYER

Privacy

You have the right to privacy with regard to information you provide pertaining to returns, reports, or the affairs of your business.

Assistance

You have the right to advice and assistance from the DOR in complying with state tax laws.

Explanation

You have the right to a clear and concise explanation of:

- ✓ basis of assessment of additional taxes, interest and penalties, or the denial or reduction of any refund or credit claim;
- ✓ procedure for protest and appeal of a determination of the DOR; and
- ✓ tax laws and changes in tax laws so that you can comply with the law.

Protest and Appeal

You have the right to protest and appeal a determination of the DOR if you disagree with an assessment of tax or penalty, reduction or a denial of a refund, a revocation of a license or permit, or other determination made by the DOR. (See reverse for procedure to file a protest.)

Conference

You have the right to a conference to discuss a tax matter.

Representation

You have the right to representation by your authorized agent (attorney, accountant or other person) in any hearing or conference with the DOR. You have the right to be informed of this right prior to the conference or hearing. If you intend for your representative to attend the conference or hearing in your place, you may be required to give your representative a power of attorney before the DOR can discuss tax matters with your authorized agent.

Recordings

You have the right to make an audio recording of any meeting, conference, or hearing with the DOR. The DOR has the right to make an audio recording, if you are notified in writing in advance or if you make a recording. You have the right to receive a copy of the recording.

Consideration

You have the right to consideration of:

- ✓ waiver of penalties or collection fees if "reasonable cause" for reduction or waiver is given ("reasonable cause" is defined in KRS 131.010(9) as: "an event, happening, or circumstance entirely beyond the knowledge or control of a taxpayer who has exercised due care and prudence in the filing of a return or report or the payment of monies due the department pursuant to law or administrative regulation");
- ✓ installment payments of delinquent taxes, interest and penalties;
- ✓ waiver of interest and penalties, but not taxes, resulting from incorrect written advice from the DOR if all facts were given and the law did not change or the courts did not issue a ruling to the contrary;
- ✓ extension of time for filing reports or returns; and
- ✓ payment of charges incurred resulting from an erroneous filing of a lien or levy by the DOR.

Guarantee

You have the right to a guarantee that DOR employees are not paid, evaluated or promoted based on taxes assessed or collected, or a tax assessment or collection quota or goal imposed or suggested.

Damages

You have the right to file a claim for actual and direct monetary damages with the Kentucky Board of Claims if a DOR employee willfully, recklessly and intentionally disregards your rights as a Kentucky taxpayer.

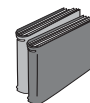
Interest


You may have the right to receive interest on an overpayment of tax.

DEPARTMENT OF REVENUE RESPONSIBILITIES

The DOR has the responsibility to:

- ✓ perform audits, conduct conferences and hearings with you at reasonable times and places;
- ✓ authorize, require or conduct an investigation or surveillance of you only if it relates to a tax matter;
- ✓ make a written request for payment of delinquent taxes which are due and payable at least 30 days prior to seizure and sale of your assets;
- ✓ conduct educational and informational programs to help you understand and comply with the laws;
- ✓ publish clear and simple statements to explain tax procedures, remedies, your rights and obligations, and the rights and obligations of the DOR;
- ✓ notify you in writing when an erroneous lien or levy is released and, if requested, notify major credit reporting companies in counties where lien was filed;
- ✓ advise you of procedures, remedies and your rights and obligations with an original notice of audit or when an original notice of tax due is issued, a refund or credit is denied or reduced, or whenever a license or permit is denied, revoked or canceled;




- ✓ notify you in writing prior to termination or modification of a payment agreement;
- ✓ furnish copies of the agent's audit workpapers and a written narrative explaining the reason(s) for the assessment; 
- ✓ resolve tax controversies on a fair and equitable basis at the administrative level whenever possible; and
- ✓ notify you in writing at your last known address at least 60 days prior to publishing your name on a list of delinquent taxpayers for which a tax or judgment lien has been filed.

PROTEST AND APPEAL PROCEDURE

Protest

If you receive a notice of assessment, a Notice of Tax Due for tax or penalty or if the DOR notifies you that a tax refund or credit has been reduced or denied, a license or permit revoked or denied, or other determination made by the DOR, you have the right to protest. To do so:

- ✓ submit a written protest within 45 days of the original Notice of Tax Due, notice of refund reduction or denial, revocation or denial of a license or permit, or other DOR determination;
- ✓ identify the type of tax involved and give the account number, Social Security number or other identification number and attach a copy of the DOR notice of determination to support that protest is timely;
- ✓ explain why you disagree;
- ✓ attach any proof or documentation available to support your protest or request additional time to support your protest;
- ✓ sign your statement, include your daytime telephone number and mailing address; and
- ✓ mail to the Kentucky Department of Revenue, Frankfort, Kentucky 40620. 


Conference

You have the right to request a conference to discuss the issue.

Final Ruling

If you do not want to have a conference or if the conference did not resolve your protest, you have the right to request a final ruling of the DOR so that you can appeal your case further.

Appeal

If you do not agree with the DOR's final ruling, you can file a written appeal with the Kentucky Board of Tax Appeals. If you do not agree with the decision of the Kentucky Board of Tax Appeals, you have the right to appeal their ruling to the Kentucky courts (first to the circuit court in your home county or in Franklin County, then to the Kentucky Court of Appeals, and finally to the Kentucky Supreme Court). 

NOTE: The above protest and appeal procedures do not apply for real property which is valued by the local property valuation administrator (PVA). Contact the local PVA for information about how to appeal the valuation of real property.

TAXPAYER OMBUDSMAN

The DOR has a Taxpayer Ombudsman whose job is to serve as an advocate for taxpayers' rights. One of the main functions of the Ombudsman is to ensure that your rights as a Kentucky taxpayer are protected.

Also, an important function of the Taxpayer Ombudsman is to confer with DOR employees when you have a problem or conflict that you have been unable to resolve. However, it is not the role of the Ombudsman to intercede in an audit, handle a protest, waive taxes, penalty or interest, or answer technical tax questions. To file a protest, see PROTEST AND APPEAL PROCEDURE. Please do not mail your protest to the Ombudsman.

The Taxpayer Ombudsman is your advocate and is there to make sure your rights are protected. If you think you are not being treated fairly or if you have a problem or complaint, please contact the Ombudsman for assistance.

The Taxpayer Ombudsman may be contacted by telephone at (502) 564-7822 (between 8:00 a.m. and 5:00 p.m. weekdays). The mailing address is: Department of Revenue, Taxpayer Ombudsman, P. O. Box 930, Frankfort, Kentucky 40602-0930.

WHERE TO GET ASSISTANCE

The DOR has offices in Frankfort and taxpayer service centers in nine cities and towns throughout Kentucky. DOR employees in the service centers answer tax questions and provide assistance. You may obtain assistance by contacting any of the following:

Ashland Taxpayer Service Center
134 Sixteenth Street, 41101-7670
(606) 920-2037

Bowling Green Taxpayer Service Center
201 West Professional Park Court, 42104-3278
(270) 746-7470

Central Kentucky Taxpayer Service Center
501 High Street
Frankfort 40601-2103
(502) 564-4581 (*Taxpayer Assistance*)

Corbin Taxpayer Service Center
15100 North US25E, Suite 2, 40701-6188
(606) 528-3322

Hopkinsville Taxpayer Service Center
181 Hammond Drive, 42240-7926
(270) 889-6521

Louisville Taxpayer Service Center
600 West Cedar Street, 2nd Floor West, 40202-2310
(502) 595-4512

Northern Kentucky Taxpayer Service Center
Turfway Ridge Office Park
7310 Turfway Road, Suite 190
Florence 41042-4871
(859) 371-9049

Owensboro Taxpayer Service Center
401 Frederica Street, Building C, Suite 201, 42301-6295
(270) 687-7301

Paducah Taxpayer Service Center
Clark Business Complex, Suite G
2928 Park Avenue, 42001-4024
(270) 575-7148

Pikeville Taxpayer Service Center
Uniplex Center, 126 Trivette Drive, Suite 203, 41501-1275
(606) 433-7675

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The DOR has an online taxpayer service center where you can download forms, publications, and obtain general information about the department. The address is www.revenue.ky.gov.

The information in this brochure merely summarizes your rights as a Kentucky taxpayer and the responsibilities of the Department of Revenue. The Kentucky Taxpayers' Bill of Rights may be found in the Kentucky Revised Statutes (KRS) at Chapter 131.041-131.081. Additional rights and responsibilities are provided for in KRS 131.020, 131.110, 131.170, 131.183, 131.500, 131.654, 133.120, 133.130, 134.580 and 134.590.

The Kentucky Department of Revenue does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of services.

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Commonwealth of Kentucky
DEPARTMENT OF REVENUE

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