COMMONWEALTH OF KENTUCKY
DEPARTMENT OF REVENUE
FRANKFORT, KENTUCKY 40620

765-GP

2005 KENTUCKY GENERAL PARTNERSHIP INCOME RETURN FORMS AND INSTRUCTIONS

Your Rights as a Kentucky Taxpayer

General Partnership Income Return (Form 765-GP)

Partner's Share of Income, Credits, Deductions, Etc.—Schedule K-1 (Form 765-GP)

Apportionment and Allocation (Schedule A)

Application for Extension of Time to File Individual, General Partnership and Fiduciary Income Tax Returns for Kentucky (Form 40A102)

Kentucky Nonresident Income Tax Withholding on Net Distributive Share Income Transmittal Report (Form 740NP-WH)

On March 18, 2005, Governor Fletcher signed into law House Bill 272, the most sweeping tax change in the history of the Commonwealth. A few of the changes will impact general partnerships, including a new method of apportioning the income of a general partnership that does business within and without Kentucky. The instructions on the following pages provide details of the law changes as they relate to general partnerships. The Department of Revenue looks forward to explaining the law changes to you. You can find additional information about House Bill 272 at our Web site at **www.revenue.ky.gov**. Please call us at (502) 564-8139 if you have any questions.

PURPOSE OF THE FORMS PACKET

This packet has been designed for Kentucky general partnerships, both domestic and foreign, which are required by law to file a Kentucky general partnership income tax return (Form 765-GP). It contains the forms and schedules needed by most general partnerships. Refer to the chart on page 3 to determine what tax form your business needs to file. Other schedules are available from the Department of Revenue or Kentucky Taxpayer Service Centers (see page 10).

HOW TO OBTAIN ADDITIONAL FORMS

Forms and instructions are available at some libraries, post offices, courthouses, banks and all Kentucky Taxpayer Service Centers (see page 10). They may also be obtained by writing FORMS, Department of Revenue, Frankfort, KY 40620, or by calling (502) 564-3658. Forms can be downloaded from **www.revenue.ky.gov**. Refer to the instructions on scannable forms for information on the use of faxed copies.

KENTUCKY TAX LAW CHANGES

Multiple Taxing Jurisdictions (Apportionment)—(Effective for tax periods beginning on or after January 1, 2005.) All limited liability entities, S corporations and limited partnerships subject to corporation income tax that do business within and without Kentucky and general partnerships that do business within and without Kentucky will be required to utilize a three-factor apportionment formula to apportion income to Kentucky. **KRS 141.120 and 141.206**

Phase II Tobacco Payments—(Effective for tax periods beginning on or after January 1, 2005.) State funds that may be paid out as an addition to or a replacement of Phase II tobacco payments are exempt from individual income tax. **KRS 141.010**

Economic Development Incentives and Credits

New Limits on Kentucky Investment Fund Act (KIFA) Credits—(Effective July 1, 2005.) KIFA tax credits available to any single investment fund are limited to $1.3 million for all investors and all taxable years. Total KIFA tax credits available for all investors in all investment funds shall not exceed $5 million per fiscal year. **(2005 Acts of the General Assembly, Chapter 173)**

Voluntary Environmental Remediation (Brownfields) Credit—(Effective for tax periods beginning after December 31, 2004.) Taxpayers who agree to clean up or develop an existing abandoned brownfield area may qualify for a credit against corporation or individual income taxes in a maximum amount of $150,000. **KRS 141.418**

Biodiesel Credit—(Effective for tax periods beginning on or after January 1, 2005.) Credits may be taken against corporation or individual income taxes for producing or blending biodiesel fuels of up to $1 per gallon produced or blended, limited to a maximum statewide credit of $1.5 million. The credit may not be carried forward. **KRS 141.422 to 141.425**

Recycling Tax Credits—(Effective for tax periods beginning after December 31, 2004.) Corporation and individual income tax recycling credits available are expanded for major recyclers who make a significant investment in plant and equipment and who meet certain employment standards. Credits are allowed for up to 50 percent of the cost of new and expanded recycling equipment, limited each taxable year to 50 percent of the total tax liability for the year the credit is claimed over the tax liability for the most recent taxable year ending prior to January 1, 2005 or $2.5 million, whichever is less. This bill also provides for the recapture of the credit if the equipment is no longer used in a qualifying manner or is sold or disposed of within five years from the date it is purchased, based upon the useful life of the equipment and year of disposition. An exception to the recapture exists in the case of transfers due to death or change in business ownership or organization as long as the equipment remains qualifying equipment. **KRS 141.390**

Historic Preservation Restoration Credit—(Effective for tax periods ending on or after December 31, 2005.) This bill allows a credit against corporation or individual income taxes for a portion of the cost of restoring a qualified residential and commercial structure listed on the National Registry of Historic Places. The credit is equal to 30 percent of the rehabilitation expenses, in the case of owner-occupied residential property, and 20 percent of the rehabilitation expenses, in the case of all other property. The total credit available is capped at $3 million annually, with each individual owner-occupied property receiving no more than $60,000. **KRS 171.397**

Filing Form Guide	
Ownership Scenario	**Form Required**
1. C corporation	720
2. Disregarded single member LLC whose single member is a C corporation	720
3. Disregarded single member LLC whose single member is an S corporation	720S
4. Disregarded single member LLC whose single member is a partnership	765
5. Nexus consolidated group of affiliated corporations with a C corporation common parent and LLC affiliates	720
6. Nexus consolidated group of affiliated corporations with a multi-member LLC common parent and LLC affiliates	**765** if common parent is taxed as a partnership for federal tax purposes **720** if LLC common parent elects to be taxed as a corporation for federal income tax purposes
7. Nexus consolidated group of affiliated corporations with a single member LLC common parent and LLC affiliates	**725** if single member LLC common parent is owned by an individual **720** if single member LLC common parent is owned by a C corporation
8. S corporation	720S
9. Disregarded single member LLC whose single member is an individual	725
10. Limited liability partnership with 50/50 partners that are corporations	765
11. Limited partnership	765
12. Nexus consolidated group of affiliated corporations with an LLP common parent and LLC affiliates.	765
13. General partnership	765-GP
14. Public traded partnership	765-GP
15. Real estate investment trusts	720
16. Financial asset securitization investment trusts	720
17. Regulated investment companies	720
18. Real estate mortgage investment conduits	765

IMPORTANT

General Partnerships must create a Kentucky Form 4562 and Schedule D by converting federal forms.

2003 Federal Changes to Section 179 Election to Expense Deduction and Depreciation Not Adopted by Kentucky—The Jobs and Growth Tax Relief Reconciliation Act of 2003 (JGTRRA) which was signed by President Bush on May 28, 2003, has been adopted for Kentucky income tax purposes except for the provisions of the JGTRRA which allow a 50 percent special depreciation allowance and an increase in the Section 179 election to expense deduction from $25,000 to $105,000.

2002 Federal Changes to Section 179 Election to Expense Deduction and Depreciation Still Not Adopted by Kentucky—The Job Creation and Worker Assistance Act of 2002 (JCWAA) which was signed by President Bush on March 9, 2002, has been adopted for Kentucky income tax purposes except for the provisions of the JCWAA which allow a 30 percent special depreciation allowance and an additional Section 179 election to expense deduction for New York Liberty Zone property which are retroactive to September 10, 2001.

Depreciation, Section 179 Deduction and Gains/Losses From Disposition of Assets—For taxable years beginning before January 1, 2002, Kentucky depreciation and Section 179 deduction are determined in accordance with the Internal Revenue Code (IRC) in effect on December 31, 1999, and 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 2005 returns and fiscal year returns that begin in 2005, any partnership income taxpayer 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;
- additional Section 179 deduction for New York Liberty Zone Property; or
- increased Section 179 deduction from $25,000 to $105,000.

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 between Kentucky and federal income tax purposes until the assets are sold or fully depreciated.

Important: If the general partnership has not taken the 30 percent special depreciation allowance, the 50 percent special depreciation allowance, the additional Section 179 deduction for New York Liberty Zone Property, 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 765-GP 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 amount from Line 16a of the federal Form 1065 must be included on page 1, Line 2, Form 765-GP. **If federal Form 4562 is required to be filed for federal income tax purposes, a copy must be attached to Form 765-GP.**
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 the 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 general partnership **must attach the Kentucky Form 4562** to Form 765-GP, and the amount from Line 22 of the Kentucky Form 4562 less Line 12 and portions of Line 14 relating to 30 percent and 50 percent special depreciation allowance, must be included on page 1, Line 6, Form 765-GP and the amount from Line 12 of the Kentucky Form 4562 must be included on Schedule K, Section I, Line 9. A Kentucky Form 4562 must be filed for each year even though a federal Form 4562 may not be required.

Determining and Reporting Differences in Gain or Loss From Disposition of Assets—If during the year the general partnership disposes of assets on which it has taken the special depreciation allowance or the additional Section 179 deduction for federal income tax purposes, the general partnership 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 1065)** and other applicable federal forms to Kentucky forms by entering **Kentucky** at the top center of the form, and compute the Kentucky capital gain net income from the disposed assets using Kentucky basis. Include the amount from Line 5 of the Kentucky Schedule D (Form 1065) on Line 4(d) or 7, Section I of Schedule K, Form 765-GP. Include the amount from Line 11 of the Kentucky Schedule D (Form 1065) on Line 4(e) or 7, Section I of Schedule K, Form 765-GP. **Federal Schedule D (Form 1065) filed with the federal return and the Kentucky Schedule D must be attached to Form 765-GP.**
2. If the amount reported on Line 6 of federal Form 1065, Net Gain or (Loss) Form 4797, is a gain, include this amount on page 1, Line 7, Form 765-GP. If the amount reported on Line 4 of federal Form 1065, Net Gain or (Loss) Form 4797, is a loss, include this amount on page 1, Line 3, Form 765-GP. 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 Line 17 of Kentucky Form 4797 is a gain, include this amount on page 1, Line 3, Form 765-GP. If the amount on Line 17 of Kentucky Form 4797 is a loss, include this amount on page 1, Line 7, Form 765-GP. **Federal Form 4797 filed with the federal return and the Kentucky Form 4797 must be attached to Form 765-GP.**

Tax Treatment of Kentucky General Partnerships and Partners

General partnerships are exempt by law from Kentucky income tax. However, **general partners of general partnerships doing business in Kentucky must report their share of income for Kentucky income tax purposes**. This applies to individuals, trusts, estates and corporations. Individuals who are Kentucky residents are required to file Form 740 and report their share of general partnership income earned within or without Kentucky. Nonresidents may choose to file Form 740-NP and report their distributive share of income from general partnerships doing business in Kentucky.

Resident partners of a general partnership shall report and pay tax on the distributive share of net income, gain, loss, or deduction. Nonresident partners of a partnership shall report and pay tax on the distributive share of net income, gain, loss, or deduction multiplied by the apportionment fraction in KRS 141.120(8). **KRS 141.206(5)(6)**

If the general partnership is a partner in a pass-through entity taxed as a corporation under KRS 141.040, the resident and nonresident individual partners shall be entitled to a nonrefundable credit against tax imposed under KRS 141.020 (Kentucky individual income tax). The credit shall be the partners' proportionate share of the tax due from the corporation as determined under KRS 141.040, before the application of any credit identified in KRS 141.0205(4) and reduced by the required minimum imposed by KRS 141.040(6). **KRS 141.420(3)**

For taxable years beginning after December 31, 2004, and before January 1, 2007, the portion of the credit computed as provided above that exceeds the credit that would have been utilized if the corporation's income were taxed at the rates in KRS 141.020 shall be refundable. The refundable portion of the credit shall be the partners' proportionate share of the amount computed by multiplying the amount the corporation's income exceeds $216,600 by 1 percent. **KRS 141.420(3)**

The nonrefundable credit determined above shall not operate to reduce the partners' tax due to an amount that is less than what would have been payable were the income attributable to doing business in this state by the corporation ignored.

GENERAL INFORMATION

Internal Revenue Code Reference Date—Effective for taxable years beginning after December 31, 2004, 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, 2004, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2004, that would otherwise terminate and as modified by KRS 141.0101, except that 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. **KRS 141.010(3)**

Who Must File—A Kentucky General Partnership Income Return, Form 765-GP, must be filed by every general partnership: (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 general partnership 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 (g) directing activities at Kentucky customers for the purpose of selling them goods or services. **KRS 141.010(25) and KRS 141.206(2)**

General Partnerships—General partnerships doing business in Kentucky solely as a partner in another general partnership will file Form 765-GP pursuant to the provisions of KRS 141.010, 141.120 and 141.206. For apportionment information, see instructions on page 7.

COMPOSITE RETURN—For taxable years beginning on or after January 1, 2005, the Kentucky Department of Revenue will recognize the filing of a "composite return" by a general partnership on behalf of electing nonresident individual partners. Income tax will be computed at the highest marginal rate provided in KRS 141.020 on the partner's pro rata share of income of the general partnership from doing business in, or deriving income from sources within, this state (KRS 141.206(13)(a). File with the Department of Revenue, Form 740-NP, Kentucky Nonresident Tax Return, attaching a schedule reporting the name, address, social security number, net distributive share income, and the tax paid for each electing nonresident individual partner. Check the box labeled Composite Return on Form 740-NP.

Required Forms and Information—Each partnership must enter all applicable information on Form 765-GP, attach a schedule for each line item or line item instruction which states "attach schedule," and the following forms or schedules, if applicable:

Kentucky Forms and Schedules

1. Schedule A—Apportionment and Allocation
2. Form 40A102—Application for Extension of Time to File Individual, General Partnership and Fiduciary Income Tax Returns for Kentucky
3. Schedule K-1 (Form 765-GP)—Kentucky Partner's Share of Income, Credits, Deductions, Etc.
4. Form 740NP-WH—Kentucky Nonresident Income Tax Withholding on Net Distributive Share Income Transmittal Report

Required Federal Forms and Schedules

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

1. Form 1065, Pages 1 through 4
2. Form 4797—Sales of Business Property
3. Schedule D—Capital Gains and Losses
4. Form 5884—Work Opportunity Credit
5. Schedules for items on Form 1065, Schedule L, which state, "attach schedule."
6. Form 4562—Depreciation and Amortization
7. Form 8825—Rental Real Estate Income and Expenses of a Partnership or an S Corporation

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.

Accounting Procedures—Kentucky income tax law requires a general partnership 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—Mail the return to Kentucky Department of Revenue, Frankfort, KY 40620. Make the check payable to Kentucky State Treasurer.

Filing Date—A general partnership return must be filed on or before the 15th day of the fourth month following the close of the taxable year. Mail the return to Kentucky Department of Revenue, Frankfort, KY 40620.

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

Extensions—An extension of time to file a general partnership income 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.** For further information, see the instructions for Form 40A102. **Regulation 103 KAR 15:050**

Amended Return—To correct Form 765-GP as originally filed, file an amended Form 765-GP 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 partners, an amended Schedule K-1 (Form 765-GP) must also be filed with the amended Form 765-GP and given to each partner. Check the Amended K-1 box on each Schedule K-1 to indicate that it is an amended Schedule K-1.

Internal Revenue Service Audit Adjustments—A general partnership 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 765-GP for reporting federal audit adjustments and check the Amended Return box.

GENERAL INSTRUCTIONS (FORM 765-GP)

Period Covered

File the 2005 return for calendar year 2005 and fiscal years that begin in 2005. For a fiscal year, fill in the taxable period beginning and ending at the top of Form 765-GP.

Item A—Enter date business commenced or qualified.

Name and Address—**Print or type the general partnership name.** 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 general partnership has a P.O. Box, show the box number instead of the street address (see **Item H** if a change in name or address has occurred).

Item B—Enter number of partners (attach K-1s).

Item C—NAICS Code Number—Enter the principal business activity code number listed in the federal Form 1065 instructions that best describes the principal business activity in Kentucky. Enter a brief description of the Kentucky activity in the appropriate box.

Item D—Telephone Number—Enter the business telephone number of the general partner signing this return.

Item E—Enter the general partnership's Federal Identification Number. See federal Publication 583 if the general partnership has not obtained this number.

Item F—Enter the six-digit **Kentucky Withholding Account Number**.

Item G—Enter the six-digit Kentucky sales and use tax permit number.

Item H—Check the applicable boxes:

(a) *Initial Return*—This return is the general partnership's initial return.

(b) *Final Return*—This is the general partnership's final return. The partnership has dissolved. Submit an explanation.

(c) *Amended Return*—Submit an explanation for the amended return.

(d) *Short-period Return*—This return is a short-period return. Submit an explanation for the short-period return.

(e) *Change of Name/Address*—A change in name or address has occurred.

Item I—Check the box if a qualified investment partnership.

Item J—Check the box if a composite return is being filed for electing nonresident partners.

INCOME/DEDUCTIONS TO BE REPORTED—The income and deductions of a Kentucky general partnership are determined under the Internal Revenue Code in effect December 31, 2004, except for differences provided in KRS 141.010 and 141.206. Differences include but are not limited to:

(1) Exclude interest income from U.S. government obligations.

(2) Include interest income from obligations of other states and their political subdivisions.

(3) Exclude the 30 and 50 percent special depreciation allowance and the additional Section 179 deduction.

For additional instructions for reporting income and deductions, see federal instructions, Form 1065.

SPECIFIC INSTRUCTIONS (FORM 765-GP)

Line 1—The Kentucky Form 765-GP begins with ordinary income (loss) reported on federal Form 1065, Line 22. Report adjustments to federal ordinary income (loss) on Form 765-GP, **Lines 2, 3, 5, 6 and 7**. See instructions for Lines 2, 6 and 7 for reporting differences in depreciation and basis for assets purchased after September 10, 2001. Prepare a schedule of other differences in federal ordinary income (loss) and report on Lines 3 and 7.

Reporting Depreciation Differences—***Important:*** *Use Lines 2 and 6* ***only*** *if the partnership has elected for federal income tax purposes to take the special depreciation allowance.* For separately stated Distributive Share Items, compute Kentucky income and enter on page 2, Schedule K, Section I. All others attach a copy of the federal Form 4562 filed for federal income tax purposes to verify that no adjustments are required.

Line 2—Enter federal depreciation (do not include Section 179 deduction). See instructions on page 4 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 6—Enter Kentucky depreciation (do not include Section 179 deduction). See instructions on page 4 regarding depreciation and Section 179 deduction differences, and if applicable, Kentucky Form 4562 must be attached.

Reporting Differences in Gain or Loss From Disposition of Assets—If the general partnership disposes of assets during the year on which the special depreciation allowance or increased Section 179 deduction was taken for federal income tax purposes, determine and report the difference in the amount of gain or loss on such assets as follows:

Line 7—**Create a Kentucky form** by entering **Kentucky** at the top center of a federal Schedule D, federal Form 4797 and other applicable federal forms. Compute Kentucky gain or loss from the disposed assets using the Kentucky basis. Enter the difference in ordinary income from federal gain or loss and the Kentucky gain or loss on page 1, Line 7, and enter all other Kentucky gains or losses on page 2, Schedule K, Section I. Attach the created Kentucky Schedule D, Kentucky Form 4797 and other forms or schedules to Form 765-GP as necessary.

Reporting Section 179 Deduction Differences, Schedule K, Line 9—The additional New York Liberty Zone deduction for property placed in service after September 10, 2001, and the increased deduction limits and thresholds for property placed in service after December 31, 2002, are not allowable for Kentucky tax purposes. Enter the Section 179 deduction allowable under the IRC in effect on December 31, 2001, on Schedule K. **NOTE:** In determining the Section 179 deduction for Kentucky, the income limitation on Form 4562, Line 11 is Kentucky net income before the Section 179 deduction instead of federal taxable income.

RECAPTURE OF IRC SECTION 179 DEDUCTIONS—Furnish each partner a schedule showing the amount of IRC Section 179 expense subject to recapture that was originally passed through to the partners. Include the general partnership's tax year in which the amount was passed through for tax purposes. Inform the partner if the recapture amount was caused by the disposition of the recovery property.

SCHEDULES K and K-1—Complete Kentucky Schedule K, Section III and Schedule K-1 for all nonresident partners. Kentucky Schedules K and K-1 are to be completed for resident partners only if the amounts to be reported are different from the amounts reported on the federal Schedules K and K-1 or the general partnership has distributable income from entities taxed as corporations under KRS 141.040. If the general partnership has economic development tax credits, Kentucky Rural Economic Development Act (KREDA), the Kentucky Jobs Development Act (KJDA), the Kentucky Industrial Revitalization Act (KIRA), the Kentucky Industrial Development Act (KIDA) or the Kentucky Economic Opportunity Zone (KEOZ), the Kentucky Schedule K for general partnerships with economic development projects must be utilized.

SCHEDULE A—APPORTIONMENT

A general partnership doing business within and without Kentucky shall apportion its net income by a fraction, the numerator of which is the property factor, representing 25 percent of the fraction, plus the payroll factor, representing 25 percent of the fraction, plus the sales factor, representing 50 percent of the fraction, with each factor determined in the same manner as provided in **KRS 141.120(8)**, and the denominator of which is four reduced by the number of factors, if any, having no denominator, provided that if the sales factor has no denominator, then the denominator shall be reduced by two. **KRS 141.206(9)**

A general partnership is doing business only in this state if property and payroll are entirely within this state. Property and payroll are deemed to be entirely within this state if all other states are prohibited by Pub. L. 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction. A general partnership which has all of its property and payroll within this state does not make the apportionment computation on Schedule A and must enter 100 percent on Schedule K-1, Item C(2). **KRS 141.206(6)**

Gross receipts, for determining the sales factor, should include in the numerator and denominator interest, dividends, royalties and gain or losses on the disposition of property.

If the general partnership is a partner in another general partnership then the general partnership shall be deemed to own the pro rata share of the property owned or leased by the other general partnership, and shall also include its pro rata share of the other general partnership's payroll and sales. The phrase "a partner in another general partnership" shall extend to each level of multiple-tiered general partnerships. KRS 141.206(8)

SCHEDULE K (FORM 765-GP)

General Instructions—Complete all applicable lines entering the total pro rata share amount for each item listed. Federal instructions for Form 1065 and federal Schedule K provide additional information which will assist the general partnership in completing Schedule K, Form 765-GP.

SECTION I—Income (Loss) and Deductions

Line 1—Enter Kentucky ordinary income (loss) from trade or business activities reported on Form 765-GP, Ordinary Income (Loss) Computation, page 1, Line 9.

Line 2—Enter net income (loss) from rental real estate activities reported on federal Schedule K, Form 1065, 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 1065.

Line 3(b)—Enter the expenses from other rental activities reported on federal Schedule K, Form 1065, 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 1065, 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 1065.

Line 4(d)—See instructions on page 4 of the 2005 Form 765-GP packet regarding **differences in gain or loss from disposition of assets**, and if applicable, enter the amount from Line 5 of the Kentucky Schedule D that is portfolio income. Report any gain or loss that is not portfolio income on Line 7, Schedule K, Form 765-GP. **Kentucky Schedule D must be attached to Form 765-GP.** Otherwise, enter the amount from Line 5 of the federal Schedule D (Form 1065) that is portfolio income.

Line 4(e)—See instructions on page 4 of the 2005 Form 765 -GP packet regarding **differences in gain or loss from disposition of assets**, and if applicable, enter the amount from Line 11 of the Kentucky Schedule D that is portfolio income. Report any gain or loss that is not portfolio income on Line 7, Schedule K, Form 765-GP. **Kentucky Schedule D must be attached to Form 765-GP.** Otherwise, enter the amount from Line 11 of the federal Schedule D (Form 1065) that is portfolio income.

Line 4(f)—Enter any other portfolio income not reported on Lines 4(a) through 4(e), Schedule K, Form 765-GP.

Line 5—Enter guaranteed payments to partners from federal Schedule K, Form 1065.

Line 6—See instructions on page 4 of the 2005 Form 765-GP packet 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 765-GP**. 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 7.

Line 7—Enter all other items of income (loss) of the general partnership not included on Lines 1 through 6. See federal instructions for Schedule K, Form 1065.

Line 8—Enter total contributions paid by the general partnership 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 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 9—See instructions on page 4 of the 2005 Form 765-GP packet 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 10—Enter the expenses related to portfolio income reported on federal Schedule K, Form 1065, adjusted to exclude expenses related to tax-exempt interest income and other exempt income.

Line 11—Enter any other deductions of the general partnership not included on Lines 8, 9 and 10. See federal instructions for Schedule K, Form 1065.

Line 12(a)—Enter the general partnership'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 1065, 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 12(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 765-GP, and only the investment expenses related thereto included on Line 10, Schedule K, Form 765-GP. See federal instructions for Schedule K, Form 1065.

Line 13, Kentucky Unemployment Tax Credit—General partnerships must complete and attach Schedule UTC to compute the total credit. Compute each general partner's distributive share to be entered on Schedules K and K-1, Line 13. The distributive share is determined by multiplying the total credit on Schedule UTC, Line 31, times the percentage of each general partner's share of the general partnership profits and losses. See Schedule UTC for further instructions.

Line 14, Recycling and Composting Equipment Tax Credit—Attach a copy of Schedule RC approved by the Department of Revenue to the general partnership's return for the year during which the equipment was purchased. The total amount of the approved credit should be entered on Schedule K. The general partnership must compute each general partner's distributive share of the total approved credit reflected on Schedule K by completing Parts I and II of Schedule RC (K-1), Pro Rata/Distributive Share of Approved Recycling and/or Composting Equipment Tax Credit. A copy of the completed Schedule RC (K-1) should be provided to each general partner with their Schedule K-1 (Form 765-GP).

If the general partnership has recycling/composting equipment tax credit recapture, attach Schedule RC-R and a Schedule RC-R (K-1) for each partner.

Line 15, Other Credits—The total amount of the approved credits should be entered on Schedule K. The general partnership must compute each general partner's distributive share of the total approved credit.

Skills Training Investment Credit (STICA). To claim the STICA credit, a copy of the final authorizing resolution received from the Bluegrass State Skills Corporation reflecting the amount of credit awarded must be attached. The credit shall be claimed on the income tax return filed for the taxable year during which the final authorizing resolution is adopted by the Bluegrass State Skills Corporation. If the amount of the credit exceeds the income tax liability for the taxable year during which the final authorizing resolution is adopted by the Bluegrass State Skills Corporation, the excess may be carried forward for three successive years. If the credit claimed is being carried forward from a prior year, attach a schedule reflecting the computation of the amount of credit available to be carried forward in addition to the final authorizing resolution from the Bluegrass State Skills Corporation.

Information regarding the approval process for these credits may be obtained from the Cabinet for Economic Development, Department of Financial Incentives at (502) 564-7670.

Historic Preservation Restoration Tax Credit. This should be completed only if the general partnership has been approved for the credit by the Kentucky Heritage Council. Credit allowed against taxes imposed by KRS 141.020 and KRS 141.040 for qualified rehabilitation expenses on certified historic structures. For more information regarding this credit visit the Council's Web site at **www.heritage.ky.gov**.

Kentucky Investment Fund Tax Credit. A general partnership 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 its investment fund and verified by the authority. The credit may be applied against individual income tax. **To claim the credit 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 return.**

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 would be 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 would be 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 individual's income tax liability 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) 564-7670.

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. 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 general partnership's return on which the credit is claimed. **KRS 141.0405**

Qualified Research Facility Tax Credit. A general partnership is entitled to a credit against individual income tax 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 general partnership's 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. To claim this credit attach the GED-Incentive Program Final Report (Form DAEL-31) for each employee that completed a learning contract during the tax year. 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 Cabinet, Kentucky Adult Education, Council on Postsecondary Education. **KRS 151B.127**

Voluntary Environmental Remediation Tax Credit (Brownfields). This is completed only if the general partnership has an agreed order with the Environmental and Public Protection Cabinet under the provisions of KRS 224.01-518 and has been approved for the credit by the Department of Revenue. Maximum credit allowed to be claimed per taxable year is 25 percent of approved credit. For more information regarding credit for voluntary environmental remediation property, contact the Environmental and Public Protection Cabinet at (502) 564-3350. To claim this credit, Schedule VERB must be attached. **KRS 141.418**

Biodiesel Tax Credit. Producers and blenders of biodiesel are entitled to tax credit against taxes imposed by KRS 141.020 and KRS 141.040. The taxpayer must file a claim for biodiesel credit with the Department of Revenue by January 15 each year for biodiesel produced or blended in the previous calendar year. The department shall issue a credit certification to taxpayer by April 15. The credit certification must be attached to the tax return on which credit is being claimed. **KRS 141.424**

Line 16(a)—Enter the information provided on federal Schedule K, Form 1065, Line 13c(1).

Line 16(b)—Enter the amount reported on federal Schedule K, Form 1065, Line 13c(2).

Line 17—Attach schedules to report the general partnership's total income, expenses and other information applicable to items not included on Lines 1 through 16 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 general partnership to figure the allowable depletion deduction, and any other information the general partners need to prepare their Kentucky income tax returns. See federal instructions for Schedule K, Form 1065, Line 13d.

SECTION II—Kentucky Distributable Corporation Income and Tax Credits

If general partnership has more than one entity previously taxed under KRS 141.040, a schedule must be attached showing the name, Federal Identification Number, and Kentucky Corporation Account Number and the information for Lines 1, 2 and 3 for each entity.

Line 1—Enter the total of the amounts from Kentucky Schedule(s) K-1 (Form 765), Line 19; the amount from Form(s) 725, Part I, LIne 13; and Schedule(s) CP (Form 725), Line 13, multiplied by the individual general partners' percentage ownership of the general partnership. Attach Schedule(s) K-1 (Form 765), pages 1 and 2 of Form(s) 725, and pages 1 and 2 of Schedule(s) CP (Form 725).

Line 2—Enter the total of the amounts from Kentucky Schedule(s) K-1 (Form 765), Line 20; the amount from Form(s) 725, Part VI, Line 4; and the amounts from Schedule(s) CP (Form 725), Line 4, multiplied by the individual general partners' percentage ownership of the general partnership.

Line 3—Enter the total of the amounts from Kentucky Schedule(s) K-1 (Form 765), Line 21; the amount from Form(s) 725, Part VI, Line 5; and the amounts from Schedule(s) CP (Form 725), Part VI, Line 5, multiplied by the individual general partners' percentage ownership of the general partnership.

SECTION III—Kentucky Nonresident Partners' Distributable Income Computation

Line 1—Enter the amount of the total nonresident individual general partners' distributable share of income from Schedule K, Lines 1 through 6, 9, and portions of 7 and 11.

Line 2—Enter the amount from Schedule K, Section II, Line 1, multiplied by the nonresident individual general partners' percentage of ownership of the total individual general partners' ownership percentage.

Line 3—Subtract Line 2 from Line 1. Enter here and report this amount on Form 740NP-WH, Line 7.

Notice—Nonresident Withholding

For taxable years ending on or after December 31, 2003, under the provisions of Regulations 103 KAR 18:070, every general partnership required to file Form 765-GP, Kentucky General Partnership Income Return, must withhold income tax at the rate of 6 percent on the net distributive share income not taxed at the corporate level of each nonresident **individual** partner. However, for those Kentucky nonresident general partners whose net distributive income not taxed at the corporate level is less than $1,000, no withholding is required. All general partnerships are liable for the payment of the tax required to be withheld less any credits passed through to the individual partner that are reasonably expected to be claimed in the current year.

The reporting of net distributive share income and payment of tax due by the general partnership shall satisfy the filing requirement for a Kentucky nonresident individual general partner (Form 740-NP) whose only Kentucky source income is net distributive share income from the general partnership. The Kentucky nonresident individual partner may file a Kentucky individual return (Form 740-NP) to take advantage of the graduated tax rates and apply the tax withheld against tax imposed on the individual return for the taxable year in which the income is reported.

General partnerships having Kentucky individual nonresident partners with net distributive share income of $1,000 or more shall complete Form 740NP-WH and Form PTE-WH for each individual nonresident partner and mail Form 740NP-WH and Copy A of PTE-WH to the Kentucky Department of Revenue with payment. The general partnership must furnish Copies B and C of Form PTE-WH to the general partners by the 15th day of the fourth month following the close of the taxable year. Form PTE-WH is available on the Kentucky Department of Revenue's Web site at **www.revenue.ky.gov**.

SCHEDULE K-1 (FORM 765-GP)—KENTUCKY PARTNER'S SHARE OF INCOME, CREDITS, DEDUCTIONS, ETC.

General Instructions

Schedule K-1 (Form 765-GP) shows each general partner's pro rata share of the general partnership's income, deductions, credits, etc. On each Schedule K-1 (Form 765-GP) enter the names, addresses and identifying numbers of the general partner and general partnership, complete items A, B, C and D. All general partners' names, Social Security or identifying numbers and other general partner information must be complete and legible. Schedule K-1 (Form 765-GP) must be completed and given to each general partner with instructions on or before the day on which Form 765-GP is filed with the Department of Revenue.

A copy of each partner's K-1 (Form 765-GP) must be attached to Form 765-GP filed with the Department of Revenue, and a copy kept as part of the general partnership's records.

Photocopies of Schedule K-1 (Form 765-GP) 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 1065) explain the rules for allocating items of income (loss), deductions, credits, etc., to each general partner. The total pro rata share items (Column (b)) of all Schedules K-1 (Form 765-GP) must equal the amounts reported on the same lines of Schedule K (Form 765-GP), Lines 1 through 17. Lines 18 through 23 do not correspond with Schedule K (Form 765-GP).

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 765-GP), the general partnership must provide information for each activity to its general partners. See **Passive Activity Reporting Requirements** in the instructions for Schedule K-1 (Form 1065) for details on the information to be provided on an attachment to Schedule K-1 (Form 765-GP) for each activity.

At-Risk Activities—If the general partnership is involved in one or more at-risk activities for which a loss is reported on Schedule K-1 (Form 765-GP), the general partnership 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 1065) for details on the information to be provided on an attachment to Schedule K-1 (Form 765-GP) for each at-risk activity.

Lines 1 through 17—Enter the general partner's total pro rata share of each item listed on Schedule K, Form 765-GP. **Do not multiply these amounts by the percentage entered on Item C(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 765-GP).

Line 17—Enter on attached schedules the supplemental information required to be reported separately to each general partner for Lines 1 through 17 and any other information or items and amounts not included on Schedule K-1 (Form 765-GP) that the general partner 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 general partner to figure the allowable depletion deduction, etc. See instructions for federal Schedule K-1 (Form 1065), Line 20.

Line 18—Enter individual general partners' pro rata share of net distributable income previously taxed under KRS 141.040 from Schedule K, Section II, Line 1.

Line 19—Enter individual general partners' pro rata share of nonrefundable Kentucky corporation income tax credit from Schedule K, Section II, Line 2.

Line 20—Enter individual general partners' pro rata share of refundable Kentucky corporation income tax credit from Schedule K, Section II, Line 3.

Lines 21 through 23—The amounts in Column (b) are to be entered by the general partner, not the general partnership.

TAXPAYER ASSISTANCE

Forms:

Operations and Support Services Branch
200 Fair Oaks Lane
Frankfort, KY 40620
(502) 564-3658
www.revenue.ky.gov (Internet)

Information:

Pass-Through Entity Branch
Department of Revenue
P.O. Box 1302
Frankfort, KY 40602-1302

Department of Revenue
200 Fair Oaks Lane
Frankfort, KY 40620
(502) 564-8139
(502) 564-3058 (Telecommunication Device for the Deaf)

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, 200 Fair Oaks Lane, Frankfort, 40620
(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, 620 South Third Street
Suite 102, 40202-2446
(502) 595-4512

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

Owensboro, 311 West Second Street, 42301-0734
(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

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

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..

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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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