

INSTRUCTIONS



2006 KENTUCKY SINGLE MEMBER LLC INDIVIDUALLY OWNED CORPORATION INCOME TAX RETURN

PURPOSE OF THE FORMS

These instructions have been designed for a Kentucky single member LLC owned by an individual (taxed as a corporation), both domestic and foreign, which are required by law to file a Kentucky corporation income tax return (Form 725). It contains the forms and schedules needed by most Kentucky single member LLCs. An individual owning multiple Kentucky single member LLCs may file Schedule CP (Form 725) in order to minimize the number of forms to be filed. See Schedule CP—Specific Instructions on page 9 of these instructions.

Refer to the chart on page 3 to determine what corporation income tax form your business needs to file. Other schedules are available from the Department of Revenue or Kentucky Taxpayer Service Centers (see page 13).

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 13). 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

CORPORATION INCOME TAX

Disregarded Entity Clarification (Effective July 12, 2006)—Clarifies that the owner of a disregarded entity for federal income tax purposes that is doing business in Kentucky shall be considered to have nexus in Kentucky for Kentucky income tax purposes. **KRS 141.010(25)**

HB 403 corrected drafting errors in the Tax Modernization bill (HB 272) enacted in the 2005 session and clarified implementation issues that were unforeseen at the time of the bill's passage. The following are technical corrections to HB 272:

Safe Harbor (Effective for taxable years beginning on or after January 1, 2006)—Amends KRS 141.042 and KRS 141.990 to provide that businesses with a prior year tax liability of \$25,000 or less will not be subject to underestimation penalties if their corporation income tax declaration payments equal or exceed the prior year's liability. **KRS 141.042 and KRS 141.990**

Includible Corporations (Effective retroactively for taxable years beginning on or after January 1, 2006)—Amends KRS 141.200(9)(d) to allow S corporations to be includible corporations filing a nexus consolidated return. **KRS 141.200**

Intangible Expense (Effective retroactively for taxable years beginning on or after January 1, 2005)—Corrects a drafting error that omitted the term *intangible expense* from KRS 141.205(2), which is the statute that grants authority to disallow deductions taken for payments made to related parties for the expenses related to the acquisition, use, maintenance, management, ownership, sale, exchange or other disposition of intangible property. The term *intangible expense* is already defined in KRS 141.205. **KRS 141.205**

Related Member (Effective retroactively for taxable years beginning on or after January 1, 2005)—Changes the confusing term *related members of an affiliated group* to *related member* in KRS 141.205. *Related member* is a defined term in KRS 141.205 and *related members of an affiliated group* is not defined. Confusion has occurred when reading the term *related members of an affiliated group* because the term *affiliated group* is also defined separately in KRS 141.205 and that definition is in conflict with the definition of *related member*. **KRS 141.205**

Pass-Through Corporation Income Tax Credits (Effective retroactively for taxable years beginning on or after January 1, 2006)—Amends KRS 141.420 to clarify that the nonrefundable and refundable pass-through corporation income tax credits do pass through to individual owners of multitiered ownership structures. **KRS 141.420**

Denial of Pass-Through Credit (Effective retroactively for taxable years beginning on or after January 1, 2006)—Amends KRS 141.420 to clarify that the nonrefundable and refundable pass-through corporation income tax credits are denied to the individual if the corporation fails to pay the corporation income tax liability due. **KRS 141.420**

Repeal of NOL Incurred in First Year of Operations (Effective retroactively for taxable years beginning on or after January 1, 2006)—Repeals KRS 141.012, which provides corporation income taxpayers the option of carrying forward the net operating loss incurred for its first year of operations in Kentucky. KRS 141.011 was amended by HB 272 to require all net operating losses to be carried forward, making KRS 141.012 unnecessary. **KRS 141.012**

Corporation Income Tax Returns for Disregarded Entities (Effective retroactively for taxable years beginning on or after January 1, 2006)—Amends KRS 141.200(10) to clarify that a disregarded single member limited liability company shall be included in the corporation income tax return of its single member. **KRS 141.200**

Tax Relief for Small Business (Effective for tax years beginning on or after January 1, 2006)—Amends KRS 141.040 to provide for exemption, except for the \$175 minimum tax, from the alternative minimum computation (AMC) a corporation whose gross receipts or gross profits from all sources are \$3 million or less. Also provides for partial relief from the AMC to a corporation whose gross receipts or gross profits from all sources are greater than \$3 million but less than \$6 million. The bill also preserves the reduction of the maximum corporate income tax rate from 7 percent to 6 percent for years beginning on or after January 1, 2007. **KRS 141.040**

Economic Development Incentives and Credits

Environmental Stewardship Tax Credit—For tax years beginning on or after January 1, 2006, an approved company may be permitted a credit against the Kentucky income tax imposed by KRS 141.020 or KRS 141.040 on the income 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 cost 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 salary 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. **KRS 154.48**

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 or KRS 141.040 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 Environmental and Public Protection 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 a subsidiary. **KRS 141.428**

CHANGES TO LOOK FOR IN 2007

- KRS 141.010(24) defines “corporation” to mean a “corporation” as defined in Section 7701(a)(3) of the Internal Revenue Code.
- The AMC is repealed and an annual limited liability entity (LLE) tax is imposed on all corporations and limited liability pass-through entities, except for entities specifically exempted.
- The LLE tax is the lesser of a corporation’s or limited liability pass-through entity’s tax on Kentucky gross receipts or Kentucky gross profits or a minimum of \$175.
- An exemption from the LLE tax, except for the \$175 minimum, is provided a corporation or a limited liability pass-through entity whose gross receipts or gross profits

- from all sources are \$3 million or less. In addition, partial relief from the LLE tax is granted to a corporation or limited liability pass-through entity whose gross receipts or gross profits from all sources are greater than \$3 million but less than \$6 million.
- A credit is allowed against the LLE tax of a corporation or limited liability pass-through entity that owns an interest in a limited liability pass-through entity.
- A nonrefundable credit based on the LLE tax calculated above shall be allowed against the tax imposed by KRS 141.020 or KRS 141.040. This nonrefundable credit received from a pass-through entity can be used only against income of the pass-through entity.

FILING FORM GUIDE	
Ownership Scenario	Form Required
1. C corporation	720
2. Nexus consolidated group of affiliated corporations (corporations as defined by KRS 141.010(24)) with a C corporation common parent	720
3. Nexus consolidated group of affiliated corporations (corporations as defined by KRS 141.010(24)) with a multi-member LLC common parent	765 if the LLC common parent is taxed as a partnership for federal tax purposes 720 if the LLC common parent elects to be taxed as a corporation for federal income tax purposes 720S if the LLC common parent elects to be taxed as an S corporation for federal income tax purposes
4. Nexus consolidated group of affiliated corporations (corporations as defined by KRS 141.010(24)) with S corporation common parent	720S
5. Nexus consolidated group of affiliated corporations (corporations as defined by KRS 141.010(24)) with a single member LLC common parent whose single member is an individual	725 if the single member LLC common parent is disregarded for federal income tax purposes 720 if the single member LLC elects to be taxed as a corporation for federal income tax purposes 720S if the single member LLC elects to be taxed as an S corporation for federal income tax purposes
6. S corporation	720S
7. Multi-member LLC	765
8. Single member LLC whose single member is an individual	725
9. Limited liability partnership with 50/50 partners that are corporations or individuals	765
10. Limited partnership	765
11. Nexus consolidated group of affiliated corporations (corporations as defined by KRS 141.010(24)) with an LLP common parent	765
12. General partnership	765-GP
13. Publicly traded partnership (treated as a partnership for federal income tax purposes)	765-GP
14. Qualified investment partnership	765-GP
15. Publicly traded partnership (taxed as a corporation for federal income tax purposes)	720
16. Real estate investment trusts	720
17. Financial asset securitization investment trusts	720
18. Regulated investment companies	720
19. Real estate mortgage investment conduits	765

IMPORTANT

A Kentucky single member LLC 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 \$108,000.

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 2006 returns and fiscal year returns that begin in 2006, any Kentucky single member LLC 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;
- additional depreciation and Section 179 deduction for Gulf Opportunity Zone Property; or
- increased Section 179 deduction from \$25,000 to \$108,000.

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 LLC 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 725 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 deduction included on the federal Schedule C, E or F (Form 1040) or Form 4835 must be included on Part I, Line 7, Form 725. **If federal Form 4562 is required to be filed for federal income tax purposes, a copy must be attached to Form 725.**
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 corporation **must attach a Kentucky Form 4562** for each Schedule C, E or F (Form 1040) or Form 4835 to Form 725. The amount from Line 22 of the Kentucky Form(s) 4562 must be included on Part I, Line 8, Form 725. 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 LLC 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 1040) to a Kentucky form by entering **Kentucky** at the top center of the form, and compute the Kentucky capital gain net income (loss) from the disposed assets using Kentucky basis. Include Kentucky gain (enter zero if a loss) on schedule for Line 2, Part I, Form 725. A corporation may only use its capital losses to offset its capital gains (Code Sec. 1211(a)). See page 8, Line 2(c) (taxable income computation), Part I, Form 725 for rules regarding carryback and carryforward of capital losses. **Federal Schedule D (Form 1040) filed with the federal return and the Kentucky Schedule D must be attached to Form 725.**
2. Convert Federal Form 4797 (Form 1040) to a Kentucky form by entering **Kentucky** at the top center of the form, and compute the Kentucky gains and (losses) from the disposed assets using Kentucky basis. Include Kentucky gain or (loss) from line 17, Part II Form 4797 on Schedule for Line 2, Part I, Form 725. **Federal Form 4797 filed with the federal return and the Kentucky Form 4797 must be attached to Form 725.**

Tax Treatment of Kentucky Single Member LLC (Taxed as a Corporation) and Individual Taxpayer

For taxable years beginning on or after January 1, 2005, all limited liability companies are taxed as corporations and shall pay for each taxable year a tax to be computed by the taxpayer (Kentucky single member LLC) on taxable net income as defined in KRS 141.010(14) or the alternative minimum calculation computed under KRS 141.040. **KRS 141.208**

A single member LLC whose single member is an individual shall file Kentucky Single Member LLC Individually Owned Corporation Income Tax Return, Form 725. An individual who owns more than one single member LLC can file Schedule CP, Kentucky Single Member LLC Individually Owned Composite Return Schedule (Form 725) rather than filing multiple forms. See instructions on page 9 of this packet regarding Schedule CP.

Resident and nonresident individuals shall be entitled to a nonrefundable credit against tax imposed under KRS 141.020 (Kentucky individual income tax). The credit shall be the individual's 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 individual's 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 individual's 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)**

Kentucky Tax Registration Application—Prior to doing business in Kentucky, each single member LLC should complete a Kentucky Tax Registration Application, Revenue Form 10A100. The application is available at Kentucky Taxpayer Service Centers (see page 13) or from the Taxpayer Registration Section, Department of Revenue, Frankfort, KY 40620. The application may be faxed to (502) 227-0772.

Who Must File—A Kentucky Single Member LLC Individually Owned Corporation Income Tax Return, Form 725, must be filed by every individually owned single member LLC: (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 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 purpose; or (g) directing activities at Kentucky customers for the purpose of selling them goods or services. **KRS 141.010(25), KRS 141.040, KRS 141.200 and KRS 141.206**

Disregarded Entities—A single member limited liability company (LLC) owned by an individual is treated for Kentucky income tax purposes in the same manner as it is treated for federal income tax purposes. Therefore, an individual filing a U.S. Individual Income Tax Return, Form 1040, will include the income (loss), modified for statutory differences, from a disregarded entity (LLC) from Form 1040 on the Kentucky Individual Income Tax Return, Form 740. However, an individually owned single member LLC shall file a Kentucky corporation income tax return and determine the Kentucky income tax liability as provided in KRS 141.040 regardless of the tax treatment for federal income tax purposes. **KRS 141.208**

Nexus Consolidated Return—The provisions of KRS 141.200(9) provide that an "affiliated group" means one or more chains of includible corporations connected through stock ownership, membership interest or partnership interest with a common parent if the ownership interest encompasses at least 80 percent of the voting power of all classes of ownership interests and has a value equal to at least 80 percent of the total value of all ownership interest. Therefore, a single member LLC (whose single member is an individual) that owns 80 percent of a C corporation, S corporation or a limited liability pass-through entity doing business in Kentucky, must file a nexus consolidated income tax return and complete Schedule KCR (Form 725), and if needed, KCR-C (Form 725). **A single member LLC that is disregarded for federal income tax purposes is not an includible corporation as provided by KRS 141.200(9), but a disregarded entity to be included with its single member.** Include each LLC that has nexus in Kentucky as provided by KRS 141.200.

General Partnership—An individually owned single member LLC filing as a corporation and doing business in Kentucky solely as a partner in a general partnership will file Form 725 pursuant to the provisions of KRS 141.010, 141.120 and 141.206. (See Schedule A—Apportionment and Allocation Instructions, Sales Factor.)

Required Forms and Information—Each single member LLC must enter all applicable information on Form 725, 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. Kentucky Single Member LLC Individually Owned Corporation Income Tax Return (Form 725)
2. Alternative Minimum Calculation (Schedule AMC)
3. Apportionment and Allocation (Schedule A)
4. Application for Filing Extension (Form 41A720SL)
5. Net Operating Loss Schedule (Schedule NOL)
6. Kentucky Single Member LLC Individually Owned Composite Return Schedule (Schedule CP)
7. Kentucky Affiliations and Payment Schedule (Form 851-N)
8. Kentucky Nexus Consolidated Return Schedule (Schedule KCR)
9. Kentucky Nexus Consolidated Return Schedule—Continuation Sheet (Schedule KCR-C)
10. Tax Credit Summary Schedule (Schedule TCS)

Required Federal Forms and Schedules

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

1. Form 1040, page 1 and 2
2. Schedule C—Profit and Loss from Business
3. Schedule D—Capital Gains and Losses
4. Schedule E—Supplemental Income and Loss
5. Schedule F—Profit or Loss from Farming
6. Form 4562—Depreciation and Amortization (if required to be filed)

7. Form 4797—Sales of Business Property
8. Form 4835—Net Farm Rental Income or (Loss)

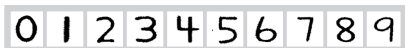
Electronic Funds Transfer (EFT)

The Department of Revenue is accepting electronically filed corporation income tax estimated tax voucher payments. Before filing by EFT, the corporation must have a valid Kentucky corporation account number which is a six-digit number and have registered with the Department of Revenue to file EFT. Using an incorrect account number such as 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 on the Web site at www.revenue.ky.gov. See E-Filing and Payment Options (**click on KY E-Tax**) located in the upper right-hand corner of the Web site. The direct link is www.revenue.ky.gov/etax.htm.

EFT is **not** available for either a corporation's return payment or extension payment. Corporations will be notified when it is available.

SCANNABLE FORMS

Application for Six-month Extension of Time to File, Form 41A720SL, and Kentucky Estimated Tax Voucher, Form 720ES, are scannable forms. There are boxes on these forms where scannable data is to be entered. Use **black ink** to enter data. Either handwritten data or machine print is acceptable. Numbers should be written like this:



When entering data in these boxes, the numbers should be right justified (blank spaces should be on the left). **No dollar signs, commas, decimals or other symbols should be used.** If there is no information to be entered in a box, leave it blank. All amounts should be rounded to the nearest dollar and no cents entered. For example, \$11,949.50 or \$11,950.49 would be entered:



Reference Mark—There is a reference mark and form number near the bottom corner of each form. **Please do not write in this area.**



Important: Use only an **original printed** Form 41A720SL or Form 720ES or an approved computer-generated version of these forms since data must be placed in specific areas on the form to be read correctly. Use of photocopies or faxed copies may cause delays in the processing of these forms.

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 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—Mail the return with payment to **Kentucky Department of Revenue, Frankfort, KY 40620. Make the check payable to Kentucky State Treasurer.**

Filing/Payment Date—A Kentucky individually owned single member LLC 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. Mail the return with payment to Kentucky Department of Revenue, Frankfort, KY 40620. Make the check payable to **Kentucky State Treasurer. KRS 141.160, KRS 141.220 and Regulation 103 KAR 15:050**

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 a Kentucky Single Member LLC Individually Owned Corporation Income Tax Return (Form 725) may be obtained by either making a specific request to the Department of Revenue on Form 41A720SL, Application for Six-Month Extension of Time to File, or attaching either a copy of the Kentucky individual extension (Form 40A102) or a copy of the federal individual extension (Form 4868) 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 the single member LLC is making a payment with its extension, Form 41A720SL must be used. For further information, see the instructions for Form 41A720SL. **Regulation 103 KAR 15:050**

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

Corporation Estimated Tax Payments—Estimated tax payments must be made by each corporation whose income tax liability for the taxable year can reasonably be expected to exceed \$5,000. The first estimated tax payment must be made by the 15th day of the 6th month of the taxable year. To determine the amount of the first payment, subtract \$5,000 from the estimated full-year tax liability, and divide the result by two. The remaining one-half is due in equal installments on the 15th day of the 9th and 12th month, respectively.

Corporation Estimated Tax—Safe Harbor—Every corporation subject to taxation under KRS 141.040 shall make a declaration of estimated tax and must pay installments if the tax imposed by KRS 141.040 for the taxable year can reasonably be expected to exceed \$5,000. A corporation that has a prior year tax liability less than or equal to \$25,000 and fails to make estimated payments equal to its prior year tax liability **or** has a prior year tax liability of greater than \$25,000 and fails to pay at least 70 percent of the tax liability less \$5,000 will be subject to a penalty of 10 percent of any underpayment of any installment. **KRS 141.042, KRS 141.044(1) and KRS 141.990**

NOTE: KRS 141.040 provides that tax is the greater of regular income tax or the Alternative Minimum Computation (AMC).

Failure to pay estimated tax installments equal to the amount determined by subtracting \$5,000 from 70 percent of the total income tax liability shown on the return for the taxable year will result in the assessment of an underpayment penalty. The amount of the penalty is 10 percent of the amount of the underpayment, but not less than \$25. **Form 2220-K, Underpayment of Estimated Tax by Corporations, must be attached. KRS 131.180(3), KRS 141.990(3) and Regulation 103 KAR 15:050**

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

Amended Return—To correct Form 725 as originally filed, file an amended Form 725 and check the appropriate box on page 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—A Kentucky individually owned single member LLC 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 725 for reporting federal audit adjustments and check the Amended Return box.

Interest—Interest at the tax interest rate is applied to corporation income tax liability not paid by the date prescribed by law for filing the return (determined without regard to extensions thereof). The tax interest rate for 2007 is published in the January 2007 *Kentucky Tax Alert* or you may contact the Department of Revenue at (502) 564-8139 to obtain the tax interest rate.

Penalties

Failure to file an income tax 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. **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 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. **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 an income tax 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 725—SPECIFIC INSTRUCTIONS

Period Covered

File the 2006 return for calendar year 2006 and fiscal years that begin in 2006. For a fiscal year, fill in the taxable period beginning and ending at the top of Form 725.

All Kentucky individually owned single member LLCs must enter Taxable Year Ending at the top right of Form 725 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:

$$\frac{1}{\text{Mo.}} \frac{2}{\text{Yr.}} / 06$$

- A fiscal year is 12 consecutive months ending on the last day of any month except December. A fiscal year ending January 31, 2007, would be entered as:

$$\frac{0}{\text{Mo.}} \frac{1}{\text{Yr.}} / 07$$

- 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 2007, would be entered as:

$$\frac{1}{\text{Mo.}} \frac{2}{\text{Yr.}} / 06$$

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

Item A—Check the applicable box to indicate whether filing a composite return, nexus consolidated return or single return. If you are filing a composite return see **Schedule CP (Form 725) Specific Instructions** on page 9 of these instructions on what information should be completed on Form 725.

Name and Address—Print or type the individually owned single member LLC's name as set forth in the Articles of Organization. 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 partnership has a P.O. Box, show the box number instead of the street address (see **Item D** if a change in name or address has occurred).

Telephone Number—Enter the business telephone number of the member/owner signing 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 Web site at www.census.gov.

Item B—Enter the Kentucky individually owned single member LLC's Federal Identification Number and the LLC's name, address and telephone number in the applicable blocks. If a composite return is being filed, enter the individual's Social Security number. Enter the name of owner, address and telephone in the applicable blocks.

Item C—Enter the six-digit **Kentucky Corporation Account Number** in the appropriate box at the top of each form and schedule and on all checks and correspondence. This number is located in correspondence received from the Department of Revenue as a result of registration. If a composite return is being filed, leave this blank.

If the account number is not known, telephone (502) 564-8139.

Item D—Check the applicable boxes:

- (a) *Initial Return*—This return is the Kentucky individually owned single member LLC's initial return.

- (b) *Final Return*—This is the Kentucky individually owned single member LLC's final return. The individually owned single member LLC has dissolved or withdrawn. 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*—A change in name has occurred. Submit a copy of the amendment of the Articles of Organization for a name change.
- (f) *Change of Address*—A change in address has occurred. Submit a copy of the amendment of the Articles of Organization for a name change.
- (g) *No Packet Required*—The corporation does not require a forms packet in future years since the forms will be obtained from an alternative source, e.g., software.

Nonresident Withholding (Form 740NP-WH)

Warning—Do not withhold on a nonresident individual member as a member is not subject to withholding as provided by the provisions of Administrative Regulation 103 KAR 18:070. Withholding payments will result in delay in processing the nonresident individual return and claim for refund.

PART I – TAXABLE INCOME COMPUTATION

Separate Entity Kentucky Return—If the single member LLC is filing a separate return complete Lines 1 through 15 following the instructions for each line

Mandatory Nexus Consolidated Return—If the single member LLC is filing a mandatory nexus consolidated return attach Schedule KCR and if needed Schedule KCR-C listing each member of the consolidated group. The consolidated totals from Lines 1 through 10 of Schedule KCR must be entered on Form 725, Part I, Lines 1 through 10.

The following line items are necessary in order to compute corporation taxable income:

Line 1—Enter from Form 1040 or Form 1041, Schedule C or Schedule F the ordinary income (loss) from trade or business activities of the single member limited liability company (disregarded entity). Attach federal Schedule C or F. If federal Schedule C or F contains activity that is individually owned and not activity of the single member limited liability company, a federal Schedule C or F shall be prepared which contain only the activity of the single member limited liability company. A separate return must be filed for each single member limited liability company owned by an individual, estate, or trust or a composite return can be filed by a owner having multiple single member liability companies (see instructions).

Line 2—Enter the total of the following (attach schedule):

- (a) From Form 1040 or Form 1041 the amounts from Schedule E, Part I, net income (loss) from rental real estate activities or royalty income; Part II, net income (loss) from general partnerships doing business in Kentucky (use the amount from the Kentucky K-1); and Part IV, the farm rental net income (loss) from federal Form 4835 of the single member limited liability company. Attach federal Schedule E, federal Form 4835, and Kentucky K-1 from the general partnership. If federal Schedule E or Form 4835 contain activity that is individually owned and not activity of the single member limited liability company a federal Schedule E or Form 4835 shall be prepared which contains only the activity of the single member limited liability company.
- (b) From Form 1040 or Form 1041 the interest income of the single member limited liability company, 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. Do not include any interest income that is individually owned.

- (c) From Form 1040 or Form 1041, Schedule D, the net short-term and long-term capital gain (if loss, enter zero) of the single member limited liability company, if the Kentucky gain or loss from disposition of assets is different from federal, attached Kentucky Schedule D and use the Kentucky gain. If Schedule D contains activity that is individually owned and not activity of the single member limited liability company a federal or Kentucky Schedule D shall be prepared which contains only the activity of the single member limited liability company.

A corporation may only use its capital losses to offset its capital gains (Code Sec.1211(a)). A corporation may carry back a capital loss to each of the three tax years preceding the loss year. Any excess may be carried forward for five years following the loss year. However, the amount carried back is limited to an amount that does not cause or increase a net operating loss in the carryback year (Code Sec. 1212(a)(1)). For a corporation, whose first tax year begins during 2006, capital losses shall be carried forward.

- (d) From Form 1040 or Form 1041, Form 4797, Part II, Line 17, the gain or (loss) of the single member limited liability company, if the Kentucky gain or (loss) is different from federal, attach Kentucky Form 4797 and use the Kentucky gain or (loss). If the Form 4797 contains activity that is individually owned and not activity of the single member limited liability company, a federal or Kentucky Form 4797 shall be prepared which contains only the activity of the single member limited liability company.
- (e) From Form 1040 or Form 1041 all other income (loss) of the single member limited liability company not included on Line 2, (a) through (d).

Line 3—Enter total of Lines 1 and 2.

Line 4—Enter charitable contributions made by the single member limited liability company, adjusted if applicable, as follows:

Limitation on Deduction: The total amount of charitable contributions claimed cannot be more than 10 percent of net income on Line 10 computed without regard to the deduction for contributions. **KRS 141.050**

Carryover: Charitable contributions over the 10 percent limitation cannot be deducted for the tax year but can be carried over to the next five years.

Special rules apply if the corporation uses a net operating loss deduction (NOLD). In figuring the charitable contribution deduction for the tax year, the 10 percent limit is applied using the taxable income before taking into account any deduction for the NOLD.

Line 5—Enter the total of any other allowable deductions for corporation income tax purposes. Include items and amounts reported separately to self-employed individuals, such as pension expenses and medical insurance expenses paid on behalf of the self-employed are deductible if not previously deducted as guaranteed payments from ordinary income.

Line 6—Enter Line 3 less Lines 4 and 5.

Line 7—Enter total federal depreciation (if required to be filed, attach all federal Forms 4562). If a federal Form 4562 contains assets that are not owned by the single member limited liability company, a federal Form 4562 shall be prepared which contains only the assets of the single member limited liability company.

Line 8—Enter total Kentucky depreciation (attach all Kentucky Forms 4562). The Kentucky Form 4562 shall contain only the assets of the single member limited liability company.

Line 9—Enter KRS 141.010(12) and KRS 141.010(13) adjustments.

Line 10—Enter the total of Lines 6, 7, and 9 less Line 8.

Line 11—Enter the amount from Schedule NOL (Form 720S, 725 or Form 765), Part I, Section A, Line 7 or Part I, Section A, Line 8. Schedule NOL (Form 720S, 725 or Form 765) must be completed by a Kentucky single member LLC filing a nexus consolidated return. Includible corporations that have incurred a net operating loss shall not deduct an amount that exceeds, in the aggregate, 50 percent of the income realized by the remaining includible corporations that did not realize a net operating loss. The portion of any net operating loss limited by the application of this provision shall be available for carryforward. **KRS 141.200(11)(b)**

Kentucky Net Operating Loss Deduction (NOLD)—The net operating loss carryback deduction is not allowed for net operating losses incurred for taxable years beginning on or after January 1, 2005. The amount of the net operating loss to be carried forward and deducted for Kentucky income tax purposes is the amount of net operating loss determined under KRS Chapter 141.

When the tax liability is based on the Alternative Minimum Calculation (AMC), the net operating loss deduction (NOLD) utilized is the amount that the taxable income **before the NOLD** exceeds the *taxable net income equivalent*. **NOTE:** *Taxable net income equivalent* means the **amount of** taxable net income that would generate an income tax equal to the AMC liability computed under KRS 141.040. **KRS 141.011, KRS 141.200(11) and Regulation 103 KAR 16:250**

Line 12—Enter the total of Lines 10 and 11.

Line 13—Enter the amount from Line 12 or, if applicable, the amount from Schedule A (Form 41A720A), Section II, Line 8. A corporation “doing business in this state” must allocate and apportion its income to Kentucky by using a three factor (payroll, property, and sales) apportionment formula with a double weighted sales factor. “Doing business in this state” includes, but is not limited to: (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 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 purpose; or (g) directing activities at Kentucky customers for the purpose of selling them goods or services. **KRS 141.010(25) and KRS 141.120**

Line 14—Enter the amount of Kentucky domestic production activities deduction from Kentucky Form 8903-K, Line 21; or zero (0) if not filing a Form 8903-K.

Line 15—Enter total of Line 13 less Line 14.

PART II—TAX COMPARISON

Line 1—Enter the regular income tax. The following rates are applied to the taxable net income on Part I, Line 15:

- (a) 4 percent of the first \$50,000 of taxable net income;
- (b) 5 percent of taxable net income in excess of \$50,000, but not in excess of \$100,000; and
- (c) 7 percent of taxable net income in excess of \$100,000.

Short-period Computation of Income Tax—A corporation filing an income tax return for a period of less than 12 months is required to annualize taxable net income. To annualize taxable net income, multiply taxable net income computed for the short period by 365 divided by the number of days in the short period. The income tax liability shall be the tax computed on the annualized income multiplied by the number of days in the short period and divided by 365. **KRS 141.140**

Line 2—Enter the amount from Schedule AMC, Section D, Line 1.

PART III—TAX COMPUTATION

Line 1—Enter the amount from Part II, greater of Line 1, Line 2 or \$175 minimum.

Line 2—Enter the recycling/composting equipment tax credit recapture. If the recycling/composting equipment tax credit recapture is for equipment placed in service and approved by the Department of Revenue before January 1, 2005, the corporation may elect to recapture the tax credit at the corporate level (attach Schedule RC-R). If the election is not made, attach Schedule RC-R and a Schedule RC-R (K-1) for each owner/member. **KRS 141.390**

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

Line 4—Enter the total tax credits from Schedule TCS, Part III, Column E.

Line 5—Subtract Line 4 from Line 3 and enter result or \$175, whichever is greater. A minimum of \$175 shall be due, regardless of the application of any credits provided under any provisions of the Kentucky Revised Statutes for which the business entity may qualify. **KRS 141.040(6)**

Line 6—Enter the total of estimated tax payments made for the taxable year. Do not include the amount credited from prior year. Check the box if Form 2220-K is attached.

Line 7—Enter the amount of income tax paid with Form 41A720SL, Application for Six-Month Extension of Time to File Kentucky Corporation Income Tax Return.

Line 8—Enter the amount credited to 2006 from Part IV, Line 11 of the 2005 tax return.

Line 9—If Line 5 is greater than the total of Lines 6 through 8, enter the difference on this line and submit payment.

Line 10—If Line 5 is less than the total of Lines 6 through 8, enter the difference.

Line 11—Enter the portion of Line 10 to be credited to 2007.

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

PART IV—CORPORATION INCOME TAX CREDIT

Line 1—Enter amount from Part III, Line 1.

Line 2—\$175 minimum imposed by KRS 141.040(6).

Line 3—Line 1 less Line 2 (individual shareholder corporation income tax credit to be distributed).

Lines 4 and 5—If taxable net income (Part I, Line 15) is greater than \$216,600, multiply the excess by 1 percent and enter this amount on Line 5. Subtract the amount entered on Line 5 from the amount entered on Line 3 and enter the result on Line 4.

SCHEDULE CP (FORM 725) SPECIFIC INSTRUCTIONS

The Kentucky Single Member LLC Individually Owned Composite Return Schedule (Schedule CP) is designed for a single member individual that owns multiple single member limited liability companies. Schedule CP can be used in lieu of filing multiple Kentucky Single Member LLC Individually Owned Corporation Income Tax Return(s) (Form 725). Schedule CP (and if needed, additional Schedule CP(s)) should be attached to Form 725. **If Schedule CP is being filed, complete only the following items on Form 725:**

Item A – Check box to indicate that a composite return (Schedule CP) is being filed.

Item B – Enter the single member individual’s Social Security number, name of owner, address and telephone number in applicable boxes.

After the completion of return, the signature block on the bottom of page 2, Form 725 must be completed and signed by the member (owner).

After completing the applicable information on Form 725, Schedule CP should be completed as follows:

In the first column heading of Schedule CP, enter the owner’s name and Social Security number.

In columns two through five headings, enter the name, federal identification number, if applicable, and Kentucky account number for each Kentucky single member LLC included in this return. Attach additional copies of Schedule CP (Form 725) as needed.

For each Kentucky single member LLC listed in Part I through Part IV, complete the line items using the instructions for Part I through Part IV on pages 8 and 9 of these instructions.

Indicate for each Kentucky single member LLC, at the bottom of page 2, Schedule CP (Form 725) whether a nexus consolidation or a single return is being filed.

If a nexus consolidated return is being filed by an entity included on Schedule CP, attach Form 851-N, Schedule KCR (Form 725), and if needed, Schedule KCR-C (Form 725). Information from Forms 1120, 1120S, 1065 or 1040 will need to be adjusted to reflect differences in federal and Kentucky income tax laws, and adjusted to be entered on Lines 1 through 10 of Schedule KCR or Schedule KCR-C. Also attach applicable copies of federal forms and schedules.

Tax Payment Summary

Tax—Check the applicable box that denotes the method used to calculate the tax paid: Income, AMC Gross Receipts, AMC Gross Profits or Minimum \$175.

The payment submitted with Form 725-CP must be itemized for each included entity. Enter the amount of tax payment from Part III, Line 9, on the Tax line, the amount of interest payment on the Interest line, the amount of penalty payment on the Penalty line, and the total payment on the TOTAL line. Check the applicable box for the method of tax calculation used for each entity included on the Form 725-CP.



Signature—Form 725 must be signed by an owner (member). **Failure by an owner (member) 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.**

Tax Credit Summary Schedule

Schedule TCS

Economic Development Tax Credits—This section is completed only if the corporation has been approved for one or more of the credits authorized by the Kentucky Rural Economic Development Act (KREDA—KRS 154.22), the Kentucky Jobs Development Act (KJDA—KRS 154.24), the Kentucky Industrial Revitalization Act (KIRA—KRS 154.26), the Kentucky Industrial Development Act (KIDA—KRS 154.28), the Kentucky Economic Opportunity Zone (KEOZ—KRS 154.23), the Skills Training Investment Credit Act (STICA—KRS 154.12–2084 to 2089) or the Kentucky Reinvestment Act (KRA—KRS 154.34). **If an amount is entered, the return and applicable schedules must be mailed to Economic Tax Credits, Tax Credits Section, Department of Revenue, P.O. Box 181, Frankfort, KY 40602-0181.**

To qualify for the KREDA, KJDA, KIRA, KIDA, KEOZ or KRA credits, the corporation must be approved by the Kentucky Economic Development Finance Authority (KEDFA) and have executed and activated the appropriate agreement with KEDFA. Form(s) and instructions for the computation of the credit(s) will be mailed to the approved corporation. To claim any of these credits, the applicable tax credit schedule must be attached.

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 line is completed only if the corporation 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.

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

Recycling/Composting Tax Credit—A corporation, 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 income tax imposed on the corporation by KRS

Chapter 141 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 corporation's return on which the credit is claimed. The amount of this credit claimed for the tax year may not exceed 25 percent of the income 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 corporation 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 income tax imposed on the corporation by KRS Chapter 141. 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 corporation's 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(a) and (b) but cannot claim both for the same recycling and/or composting equipment.

Enter the amount of additional recycling credit allowed from Schedule RC-R, Disposition of Recycling or Composting Equipment, Line 10. **Schedule RC-R must be attached. KRS 141.390**

Coal Conversion Tax Credit—A corporation which converts boilers from other fuels to the use of 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 corporation income tax 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. To claim this credit, Schedule CC must be attached. **KRS 141.041**

Corporation Enterprise Zone Update—Effective December 31, 2005, the Lexington and Owensboro enterprise zones expired. To date, Ashland, Covington, Hickman, Lexington, Louisville and Owensboro enterprise zones have expired. For corporate tax purposes, qualified businesses in these enterprise zones will no longer be able to claim a credit for tax year ended 2006. However, previous year carryforwards will be allowed. A schedule of this carryforward is required.

Enterprise Zone Tax Credit—Except for companies located within the former Ashland, Covington, Hickman, Lexington, Louisville and Owensboro enterprise zones, for employees hired on or after July 14, 1992, a corporation certified by the Kentucky Enterprise Zone Authority as a qualified business may be entitled to a nonrefundable credit against Kentucky corporation income tax equal to 10 percent of wages paid to each employee who has been certified by the Education Cabinet, Department of Workforce Investment, Office of Employment and Training, as having been unemployed for at least 90 days or having received

public assistance benefits, based on need and intended to alleviate poverty, for at least 90 days prior to employment with the qualified business. For certification questions, call (502) 564-7456. The credit is limited to \$1,500 per employee, and any unused credit may be carried forward for up to five years. To claim the credit, Schedule EZC must be attached. **KRS 154.45-090**

Kentucky Investment Fund Tax Credit—A corporation 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 corporation 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 corporation'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 corporation's return on which the credit is claimed. **KRS 141.0405**

Qualified Research Facility Tax Credit—A corporation is entitled to a credit against corporation 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 the corporation'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 (Brownfield)—This line is completed only if the corporation 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 and Regulation 103 KAR 15:140**

Environmental Stewardship Tax Credit—For tax years beginning on or after January 1, 2006, an approved company may be permitted a credit against the Kentucky income tax imposed by KRS 141.020 or KRS 141.040 on the income 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 cost 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 salary 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, Old Capitol Annex, 300 West Broadway, Frankfort, Kentucky 40601. **KRS 154.48**

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 or KRS 141.040 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 Environmental and Public Protection 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 a subsidiary. **KRS 141.428**

TAXPAYER ASSISTANCE

Forms:

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



Information:

Corporation Income and License Tax 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



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 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

**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.

Printing costs paid from state funds.

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.

RIGHTS OF TAXPAYER

Privacy—You have the right to privacy of information provided to the DOR.

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.

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

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 have the right to receive interest on an overpayment of tax, except delinquent property tax, payable at the same rate you would pay if you underpaid your 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 from the original notice date;
- 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, KY 40620.

Independent Informal Review—You have the right to request an independent informal review.

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).

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

200 Fair Oaks Lane
Frankfort 40620
(502) 564-4581 (*Taxpayer Assistance*)

Corbin Taxpayer Service Center

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

Hopkinsville Taxpayer Service Center

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

Louisville Taxpayer Service Center

620 South Third Street, Suite 102, 40202-2446
(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

311 West Second Street, 42301-0734
(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

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.

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This information 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, 133.120, 133.130, 134.580 and 134.590.

