



# INSTRUCTIONS

## 2008

# KENTUCKY GENERAL PARTNERSHIP INCOME RETURN

*The Department of Revenue will not be printing general partnership packets and labels in 2008.*

### PURPOSE OF INSTRUCTIONS

These instructions have been designed for Kentucky general partnerships, both domestic and foreign, which are required by law to file a Kentucky general partnership income return (Form 765-GP). Forms and schedules are available from the Department of Revenue or Taxpayer Service Centers (see page 13).

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 13).

### HOW TO OBTAIN ADDITIONAL FORMS

Forms and instructions are available at 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](http://www.revenue.ky.gov).

## KENTUCKY TAX LAW CHANGES

### 2007 Second Special Session of the Kentucky General Assembly

#### HB 1 – Provisions effective for tax years beginning on or after January 1, 2008

**Biodiesel Credit** – A biodiesel producer, biodiesel blender, or renewable diesel producer shall be eligible for a nonrefundable tax credit against taxes imposed by KRS 141.020, or 141.040 and KRS 141.0401 in an amount certified by the department. The credit rate shall be \$1 per biodiesel gallon produced by a biodiesel producer, \$1 per gallon of biodiesel used in the blending process by a biodiesel blender, and \$1 per gallon of renewable diesel produced by a renewable diesel producer not to exceed an annual cap for all producers and blenders of \$5 million for calendar year 2008. A producer or blender must produce the biodiesel, renewable diesel, or blended biodiesel at a location in this Commonwealth to qualify for the tax credit.

“Biodiesel” means a renewable, biodegradable, mono alkyl ester combustible liquid that is derived from agriculture crops, agriculture plant oils, agriculture residues, animal fats, or waste products that meet current American Society for Testing and Materials specification D6751 for biodiesel fuel (B100) blend stock distillate fuels. “Blended biodiesel” means a blend of biodiesel with petroleum diesel so that the percentage of biodiesel in the blend is at least 2% (B2 or greater). “Renewable diesel” means a renewable, biodegradable, non-ester combustible liquid that: (a) Is derived from biomass resources as defined in KRS 152.715(4); and (b) Meets the current American Society for Testing and Materials Specification D396 for fuel oils intended for use in various types of fuel-oil-burning equipment, D975 for diesel fuel oils suitable for various types of diesel fuel engines, or D1655 for aviation turbine fuels.

**Cellulosic Ethanol Credit** – A cellulosic ethanol producer shall be eligible for a nonrefundable tax credit against taxes imposed by KRS 141.020, or 141.040 and KRS 141.0401 in an amount certified by the department. The credit rate shall be \$1 per cellulosic ethanol gallon produced by a cellulosic ethanol producer not to exceed an annual cap for all producers of \$5 million. If the total ethanol credit does not exceed the annual cap for that program, then the unused cap may be used to increase the annual cellulosic ethanol credit cap.

“Cellulosic ethanol” means ethyl alcohol for use as a motor fuel that meets the current American Society for Testing and Materials specification D4806 for ethanol that is produced from cellulosic biomass materials of any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis: (a) Plant waste from industrial processes such as sawdust and paper pulp; (b) Energy crops grown specifically for fuel production such as switchgrass; or (c) Agriculture plant residues such as corn stover, rice hulls, sugarcane, and cereal straws. A “cellulosic ethanol producer” means an entity that uses cellulosic biomass materials to manufacture cellulosic ethanol at a location in this Commonwealth.

**Ethanol Credit** – An ethanol producer shall be eligible for a nonrefundable tax credit against taxes imposed by KRS 141.020, or 141.040 and KRS 141.0401 in an amount certified by the department. The credit rate shall be \$1 per ethanol gallon produced by an ethanol producer not to exceed an annual cap for all producers of \$5 million. If the total cellulosic ethanol credit does not exceed the annual cap for that program, then the unused cap may be used to increase the annual ethanol credit cap.

“Ethanol” means ethyl alcohol produced from corn, soybeans, or wheat for use as a motor fuel that meets the current American Society for Testing and Materials specification D4806 for ethanol. An “ethanol producer” means an entity that uses corn, soybeans, or wheat to manufacture ethanol at a location in this Commonwealth.

## 2008 Regular Session of the Kentucky General Assembly

**Interest Rate for Tax Liabilities and Refunds (Effective May 1, 2008)** – Amends KRS 131.183 to provide that the Commissioner of the Department of Revenue shall adjust the tax interest rate not later than November 15 of each year if the adjusted prime rate charged by banks during October of that year, rounded to the nearest full percent, is at least one (1) percentage point more or less than the tax interest rate which is then in effect. The adjusted tax interest rate shall become effective on January 1 of the succeeding year. Beginning on May 1, 2008, all taxes payable to the Commonwealth that have not been paid shall accrue interest at the rate set by the Commissioner plus two percent (2%), and any overpayment as defined in KRS 134.580 shall accrue interest at the rate set by the Commissioner minus two percent (2%).

Also amends KRS 131.183 and sections of KRS Chapter 141 to provide that interest on refunds shall begin to accrue sixty (60) days after the later of: (a) The due date of the return; (b) The date the return was filed; (c) The date the tax was paid; (d) The last day prescribed by law for filing the return; or (e) The date an amended return claiming a refund is filed.

Creates a new subsection of KRS 141.160 to provide that tax returns of cooperatives as described in Section 521 and 1381 of the Internal Revenue Code or by KRS Chapter 272 shall be filed on or before the fifteenth day of the ninth month following the close of the tax year. **(HB 704)**

**Apportionment of Income (Effective for years beginning on or after January 1, 2008)** – Creates a new section of KRS Chapter 141 to provide that for purposes of apportioning income: (a) The net gain from the disposal of “liquid assets” that produce business income shall be included in the numerator and denominator of the sales factor; and (b) Passenger airlines shall use “revenue passenger miles” as provided by 14 C.F.R. Part 241 to allocate aircraft to the numerator of the property factor, compensation paid to flight personnel to the numerator of the payroll factor, and transportation revenues to the numerator of the sales factor. **(HB 258)**

## FILING FORM GUIDE

Type of Entity	Kentucky Form and Tax		
	Form Required	Corporation Income Tax	LLET
1. C corporation	720	Yes	Yes
2. C corporation (consolidated group as provided by KRS 141.200(4))	720	Yes	Yes
3. C corporation (nexus consolidated group as provided by KRS 141.200 (9) to (14))	720	Yes	Yes
4. Publicly traded partnership (taxed as a corporation for federal income tax purposes)	720	Yes	Yes
5. S corporation	720S	Yes*	Yes
6. Single member limited liability company whose single member is an individual	725	No	Yes
7. Limited liability company (two or more members)	765	No	Yes
8. Limited partnership	765	No	Yes
9. Limited liability partnership	765	No	Yes
10. General partnership	765-GP	No	No
11. Publicly traded partnership (taxed as a partnership for federal income tax purposes)	765-GP	No	No

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

## IMPORTANT

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

**Depreciation, Section 179 Deduction and Gains/Losses From Disposition of Assets**—For taxable years beginning after December 31, 2001, Kentucky depreciation and Section 179 deduction are determined in accordance with the IRC in effect on December 31, 2001. For calendar year 2008 returns and fiscal year returns that begin in 2008, 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;
- additional depreciation and Section 179 deduction for Gulf Opportunity Zone Property; or
- increased Section 179 deduction from \$25,000 to \$250,000.

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

**Important:** If the 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: 765-GP – Schedule D and Form 4797**

1. The depreciation from federal Form 1065, Line 16(a) must be included on Form 765-GP, Page I, Line 3. **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 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 partnership **must attach the Kentucky converted Form 4562** to Form 765-GP, and the amount from Kentucky converted Form 4562, Line 22 less the Section 179 deduction on Line 12 must be included on Form 765-GP, Page I, Line 8. The Section 179 deduction from the converted Form 4562, Line 12 must be included on Form 765-GP, Schedule K, Section I, Line 9. A Kentucky converted Form 4562 must be filed for each year even if a federal Form 4562 is not required.

**Determining and Reporting Differences in Gain or Loss From Disposition of Assets—If during the year the 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 or (loss) from the disposal of assets using Kentucky basis. Enter the amount from Kentucky converted Schedule D (Form 1065), Line 5 on Form 765-GP, Schedule K, Section I, Line 4(d) or 7. Enter the amount from Kentucky converted Schedule D (Form 1065), Line 11 on Form 765-GP, Schedule K, Section I, Line 4(e) or 7. **Federal Schedule D (Form 1065) filed with the federal return and the Kentucky converted Schedule D (Form 1065) must be attached to Form 765-GP.**
2. If the amount reported on federal Form 1065, Line 6 (from Form 4797, Line 17) is a gain; enter this amount on Schedule O-PTE, Part II, Line 1. If the amount reported on federal Form 1065, Line 6 (from Form 4797, Line 17) is a loss; enter this amount on Schedule O-PTE, Part I, Line 1. Convert **federal Form 4797** and other applicable federal forms to Kentucky forms by entering **Kentucky** at the top center of the form, and compute the Kentucky gain or (loss) from the sale of business property using Kentucky basis. If the amount on Kentucky converted Form 4797, Line 17 is a gain; enter this amount on Schedule O-PTE, Part I, Line 2. If the amount on Kentucky converted Form 4797, Line 17 is a loss; enter this amount on Schedule O-PTE, Part II, Line 2. **Federal Form 4797 filed with the federal return and the Kentucky converted 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 who are not included by the general partnership in a composite return filing or nonresident withholding shall 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 as provided by KRS 141.206(9). **KRS 141.206(5)(6)**

**If the general partnership is a partner or member of a limited liability pass-through entity doing business in Kentucky, the general partners shall be entitled to an LLET credit against taxes imposed by KRS 141.020 or KRS 141.040 and KRS 141.0401.** The LLET credit shall be the general partners' proportionate share of the LLET from the limited liability pass-through entity for the current year after the subtraction of any credits identified in KRS 141.0205 and reduced by the minimum tax of \$175. The LLET credit allowed shall be applied to the income tax assessed on the income from the limited liability pass-through entity. Any remaining LLET credit from the limited liability pass-through entity shall be disallowed. **KRS 141.0401(3)**

## GENERAL INFORMATION

**Internal Revenue Code Reference Date**—Effective for taxable years beginning after December 31, 2006, Kentucky Revised Statute (KRS) 141.010(3) was amended to define "Internal Revenue Code" (IRC) for Kentucky income tax purposes to mean the IRC in effect on December 31, 2006, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2006, that would otherwise terminate and as modified by KRS 141.0101, 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 pass-through entity doing business in this state; (f) deriving income from or attributable to sources within this state, including deriving income directly or indirectly from a trust doing business in this state, or deriving income directly or indirectly from a single member limited liability company that is doing business in this state and is disregarded as an entity separate from its single member for federal income tax purposes; or (g) directing activities at Kentucky customers for the purpose of selling them goods or services. **KRS 141.010(25) and KRS 141.206(2)**

**General Partnerships**—General partnerships doing business in Kentucky solely as a partner in a pass-through entity 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.

## Nonresident Withholding (Form 740NP-WH)

### Withholding

**An S corporation or partnership partner, member or shareholder is a pass-through entity not subject to withholding.**

KRS 141.206(4)(b) provides that for taxable years beginning on or after January 1, 2007, every pass-through entity required to file a return under KRS 141.206(2), except publicly traded partnerships as defined in KRS 141.0401(6)(r), shall withhold Kentucky income tax on the distributive share, whether distributed or undistributed, of each nonresident individual (**includes an estate or trust partner, member or shareholder**) partner, member or shareholder, or each C-corporation partner or member that is doing business in Kentucky only through its ownership interest in a pass-through entity. Withholding shall be at the maximum rate as provided in KRS 141.020 or KRS 141.040.

Withholding shall not be required if: (a) the pass-through entity demonstrates to the department that a partner, member or shareholder has filed an appropriate tax return for the prior year with the department, by attaching to the Kentucky Form 40A201, "740NP-WH, Kentucky Nonresident Income Tax Withholding on Net Distributive Share Income Transmittal Report," a statement that the partner, member or shareholder is exempt from withholding as provided by KRS 141.206(4)(b)2, and providing each partner's, member's or shareholder's name, address, federal identification number, Kentucky corporation/LLET Account Number, if applicable, and net distributive income; (b) the nonresident partner or member is exempt from Kentucky income tax as provided by KRS 141.040(1); (c) the partner, member or shareholder is a nonresident individual and the pass-through entity is a qualified investment pass-through entity as provided by KRS 141.206(12)(a); or (d) the partner or member is a pass-through entity as provided by KRS 141.010(26).

The reporting of a nonresident individual's, estate's or trust's net distributive share income and withholding on Form 740NP-WH at the maximum rate of six (6) percent shall satisfy the filing requirements of KRS 141.180 for a nonresident individual, estate or trust partner, member or shareholder whose only Kentucky source income is net distributive share income. The nonresident individual estate or trust partner, member or shareholder may file a Kentucky Individual Income Tax Return Nonresident or Part-Year Resident (Form 740-NP) or a Kentucky Fiduciary Income Tax Return (Form 741) to take advantage of the graduated tax rates, credits and deductions.

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

### Composite Return—Nonresidents Only

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

**The composite return applies only to a nonresident individual (includes an estate or trust partner, member or shareholder) partner, member or shareholder whose distributive share was not subject to withholding as provided by KRS 141.206(4), and the partner, member or shareholder elects to be included in a composite return as provided by KRS 141.206(13).**

For taxable years beginning on or after January 1, 2007, the Department of Revenue will permit the filing of a “composite return” as provided by KRS 141.206(13) on behalf of electing nonresident individual partners, members or shareholders of a pass-through entity as defined in KRS 141.010(26). Income tax will be computed at the highest marginal rate provided in KRS 141.020 on the partner’s, member’s or shareholder’s pro rata share of the distributive share income from a pass-through entity doing business in, or deriving income from sources within Kentucky. The partners’, members’ or shareholders’ distributive share of income shall include all items of income or deduction used to compute adjusted gross income on the Kentucky return that is passed through to the partner, member or shareholder by the pass-through entity, including but not limited to interest, dividend, capital gains or losses, guaranteed payments and rents (KRS 141.206(13)).

The composite return of a pass-through entity shall be filed with the Department of Revenue, on Form 740-NP, Kentucky Individual Income Tax Return Nonresident or Part-Year Resident. The composite return box on the front of the Form 740-NP return shall be checked to indicate that this is a composite return, and a schedule shall be attached reporting each of the electing nonresident individual partner’s, member’s or shareholder’s name, address, social security number, net distributive share income and tax due. The tax due for all electing partners, members or shareholders shall be remitted with the composite return. A pass-through entity filing a composite return shall make estimated tax payments if required by the provisions of KRS 141.300.

**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.

**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.

#### **Kentucky Forms and Schedules**

1. General Partnership Income Return (Form 765-GP)
2. Partner’s Share of Income, Credits, Deductions, Etc.—Schedule K-1 (Form 765-GP)
3. Apportionment and Allocation (Schedule A)
4. Apportionment and Allocation—Continuation Sheet (Schedule A–C)
5. Application for Extension of Time to File Individual, General Partnership and Fiduciary Income Tax Returns for Kentucky (Form 40A102)
6. Other Additions And Subtractions To/From Federal Taxable Income (Schedule O-PTE)

#### **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, all pages
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

**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.**

**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)**

**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)**

**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, Application of Extension of Time to File Individual, General Partnership and Fiduciary Income Tax Returns for Kentucky. **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 2008 return for calendar year 2008 and fiscal years that begin in 2008. 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—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 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*—Check this box if the partnership has changed its name.
- (f) *Change of address*—Check this box if the partnership has changed its address.
- (g) *Qualified Investment Pass-through Entity*—Check box only if you are a general partnership that has been formed as a qualified investment pass-through entity.

**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, 2006, 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, 4, 5, 7, 8 and 9. See instructions for Lines 3, 5, 8 and 9 for reporting

differences in depreciation and basis for assets purchased after September 10, 2001. Attach Schedule O-PTE to report amounts on Lines 5 and 9.

**Reporting Depreciation Differences—Important:** Use Lines 3 and 8 **only** if the partnership has elected for federal income tax purposes to take the special depreciation allowance. Attach a copy of the federal Form 4562 filed for federal income tax purposes to verify that no adjustments are required.

**Line 2**—Enter state taxes measured in whole or in part by gross or net income. “State” means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico, any territory or possession of the United States or any foreign country or political subdivision thereof. Attach a schedule reflecting the total taxes deducted on Form 1065. **KRS 141.010(13)(a)**

**Line 3**—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 4**—Enter related party and intangible expenses prohibited by KRS 141.205.

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

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

**Line 8**—Enter Kentucky depreciation (do not include Section 179 deduction). See instructions on page 4 regarding depreciation and Section 179 deduction differences, and if applicable, Kentucky converted Form 4562 must be attached.

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

### **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)**

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

**If the general partnership is a partner in another pass-through entity then the general partnership shall be deemed to own the pro rata share of the property owned or leased by the pass-through entity, and shall also include its pro rata share of the pass-through entity's payroll and sales. The phrase "a partner in another pass-through entity" shall extend to each level of multiple-tiered pass-through entities. 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**

A general partnership filing Form 765-GP must use Form 765-GP(K), "Kentucky Schedule K for General Partnerships with Economic Development Project(s)," if the partnership has one or more projects under the Kentucky Rural Economic Development Act (KREDA), Kentucky Industrial Development Act (KIDA), Kentucky Jobs Development Act (KJDA), Kentucky Economic Opportunity Zone (KEOZ) or Kentucky Industrial Revitalization Act (KIRA).

**Line 1**—Enter Kentucky ordinary income (loss) from trade or business activities reported on Form 765-GP, Ordinary Income (Loss) Computation, page 1, Line 11.

**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 2008 Form 765-GP regarding **differences in gain or loss from disposition of assets**, and if applicable, enter the amount from Line 5 of the Kentucky converted 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 converted 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 2008 Form 765-GP regarding **differences in gain or loss from disposition of assets**, and if applicable, enter the amount from Line 11 of the Kentucky converted 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 converted 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 a 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 2008 Form 765-GP regarding **differences in gain or loss from disposition of assets**. If applicable, enter the amount from Line 7 of the Kentucky converted Form 4797, and **Kentucky converted 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 2008 Form 765-GP regarding **depreciation and Section 179 deduction differences**, and if applicable, include the amount from Line 12 of the Kentucky converted Form 4562. **Kentucky converted 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**—Enter the Skills Training Investment Credit Act (STICA) tax credit as provided by KRS 141.405 and attach a copy of the final resolution received from the Bluegrass State Skills Corporation.

**Line 14**—Enter the Historic Preservation Restoration Tax Credit as provided by KRS 171.397 and attach a copy of the final resolution received from the Kentucky Heritage Council.

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



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

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

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

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

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

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

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

**Line 23**—Enter the Environmental Stewardship Tax Credit as provided by KRS 141.430 and attach Kentucky Schedule.

**Line 24**—Enter the Clean Coal Incentive Tax Credit as provided by KRS 141.428 and attach Kentucky Schedule.

**Line 25**—Enter the ethanol credit as provided by KRS 141.4242 and attach Kentucky Schedule ETH (Form 41A720ETH).

**Line 26**—Enter the cellulosic ethanol credit as provided by KRS 141.4244 and attach Kentucky Schedule CELL (Form 41A720CELL).

**Line 27(a)**—Enter the information provided on federal Schedule K, Form 1065, Line 13c(1).

**Line 27(b)**—Enter the amount reported on federal Schedule K, Form 1065, Line 13c(2).

**Line 28**—Enter the total amount of interest income of the partnership from U.S. government bonds and securities and obligations of Kentucky and its political subdivisions.

**Line 29**—Enter the total amount of any other type of income of the partnership on which the partner is exempt from Kentucky income tax.

**Line 30**—Enter the total amount of nondeductible expenses paid or incurred by the general partnership including, but not limited to, state taxes measured by gross/net income, expenses related to tax-exempt income, etc. Do not include a deduction reported elsewhere on Schedule K, Form 765-GP, capital expenditures or items the deductions for which are deferred to a later year.

**Line 31**—Enter the amount reported on federal Schedule K, Form 1065, Line 19a and 19b.

**Line 32**—Attach schedules to report the general partnership's total income, expenses and other information applicable to items not included on Lines 1 through 31 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 partners need to prepare their Kentucky income tax returns. See federal instructions for Schedule K, Form 1065, Line 13d.

**Kentucky domestic production activities deduction (KDPAD)**—KDPAD is only computed for C corporations filing Form 720. Pass-through entities must attach to each individual, estate or trust partner's, member's or shareholder's Kentucky Schedule K-1 a statement showing the partner's, member's or shareholder's distributive share of federal domestic production gross receipts (DPGR); Kentucky domestic production gross receipts (KDPGR); and Kentucky W-2 wages allocable to DPGR to be used to compute the DPAD deduction on the individual's Kentucky income tax return. For each corporate or pass-through entity member or partner, following federal instructions and using Kentucky amounts, include in a statement attached to each Kentucky Schedule K-1 the following additional information which is necessary to compute the KDPAD in accordance with Section 199 of the Internal Revenue Code: (1) If a pass-through entity does not qualify or elects not to use the small business simplified overall method, simplified deduction method or Section 861 method to compute its qualified production activities income (QPAI) at the entity level, attach the following: (a) DPGR, (b) Cost of goods sold allocable to DPGR, adjusted to reflect differences in Kentucky and federal income tax law, (c) Expenses allocable to DPGR, adjusted to reflect differences in Kentucky and federal income tax law, and (d) Kentucky W-2 wages allocable to DPGR; or (2) If a pass-through entity qualifies and elects to use the small business simplified overall method, simplified deduction method or Section 861 method to compute its QPAI at the entity level, attach the following: (a) DPGR, (b) QPAI, adjusted to reflect differences in Kentucky and federal income tax law, and (c) Kentucky W-2 wages allocable to DPGR. Also, see additional instructions on Kentucky Form 8903-K.

**Line 33**—Enter the recapture of Recycling and Composting Equipment Tax Credit as provided by KRS 141.390 and attach Kentucky Schedule RC-R (Form 41A720RC-R).

## **SECTION II—General Partnership Pass-through Items**

**Lines 1 through 8 of this section do not need to be completed if all the partners or members are individuals, estates or trusts. In order to enter the correct amounts on lines 1 through 8 of this section, Schedule A (Form 41A720A) must be completed and attached to the tax return.**

**Line 1**—Enter the general partnership's Kentucky sales from Schedule A, Section I, Line 1.

**Line 2**—Enter the general partnership's total sales from Schedule A, Section I, Line 2.

**Line 3**—Enter the general partnership's Kentucky property from Schedule A, Section I, Line 5.

**Line 4**—Enter the general partnership's total property from Schedule A, Section I, Line 6.

**Line 5**—Enter the general partnership's Kentucky payroll from Schedule A, Section I, Line 8.

**Line 6**—Enter the general partnership's total payroll from Schedule A, Section I, Line 9.

**Line 7**—Enter the general partnership's Kentucky gross profits.

**Line 8**—Enter the general partnership's total gross profits from all sources.

## **SECTION III—Limited Liability Entity Tax (LLET) Pass-through Items**

**Attach Schedule K-1 (Form 765) from a Kentucky Partnership Income and LLET Return, or a Kentucky Single Member LLC Individually Owned LLET Return (Form 725). If the general partnership is a partner or member of more than one limited liability pass-through entity complete a separate Section III for each entity.**

**Line 1**—Enter the net distributive income from Kentucky Schedule K-1 (Form 765), Lines 1 through 6, 9 and portions of Lines 7 and 11; or Form 725, Line 11.

**Line 2**—Enter the nonrefundable credit from Kentucky Schedule K-1 (Form 765), Line 42; or Form 725, page 1, Part III, Line 3.



**Signature**—Form 765-GP must be signed by a partner.

**Failure by a partner to sign the return, to complete all applicable lines on any required Kentucky form, to attach all applicable schedules including copies of federal forms or to complete all information on the questionnaire will delay the processing of tax returns and may result in the assessment of penalties.**

## **SCHEDULE K-1 (FORM 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 and complete items A, B, C, D and E. 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 distributive share items reported on all Schedules K-1, Column (b), Lines 1 through 33 must equal the amounts reported on Schedule K, Lines 1 through 33; the distributive share items reported on all Schedules K-1, Column (b), Lines 34 through 41 must equal the amounts reported on comparable lines of Schedule K, Section II, Lines 1 through 8; and the distributive share items reported on all Schedules K-1, Column (b), Lines 42 and 43 must equal the amounts reported on comparable lines of Schedule K, Section III, Lines 1 and 2. Schedule K-1, Column (b), Lines 44 through 46 do not correspond with Schedule K.

**Multiple Activities**—If items of income, loss or deduction from more than one activity are reported on Lines 1, 2 or 3 of Schedule K-1 (Form 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 43**—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).

Enter on attached schedules the supplemental information required to be reported separately to each general partner for Lines 1 through 43 and any other information or items and amounts not included on Schedule K-1 (Form 765) for which the 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 partner to figure the allowable depletion deduction, etc. See instructions for federal Schedule K-1 (Form 1065), Line 20.

**Lines 44 through 46**—The amounts in Column (b) are to be entered by the general partner and not by the general partnership.

## Tax Credit Summary

**Skills Training Investment Tax Credit**—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.

**Historic Preservation Restoration Tax Credit**—This credit is allowed only if the taxpayer has been approved for the credit by the Kentucky Heritage Council. Credit is allowed against the taxes imposed by KRS 141.020, KRS 141.040, KRS 141.0401 and KRS 136.505 for qualified rehabilitation expenses on certified historic structures. Information regarding this credit is at [www.heritage.ky.gov](http://www.heritage.ky.gov). **KRS 171.397**

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

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

For taxable years beginning after December 31, 2004, a taxpayer which purchases recycling and/or composting equipment to be used exclusively in Kentucky for recycling or composting post-consumer waste material that qualifies as a Major Recycling Project is entitled to a nonrefundable credit against the taxes imposed by KRS 141.020, KRS 141.040 and KRS 141.0401. The credit is an amount equal to 50 percent of the installed cost of the recycling or composting equipment limited to: 50 percent of the excess of the total of each tax liability over the baseline tax liability of the taxpayer or \$2,500,000. To qualify, the taxpayer must: (1) invest more than \$10,000,000 in recycling or composting equipment to be used exclusively in this state; (2) have more than 750 full-time employees with an average hourly wage of more than 300 percent of the federal minimum wage; and (3) have plant and equipment with a total cost of more than \$500,000,000. Application for this credit must be

made on Schedule RC, and a copy of the schedule reflecting the amount of credit approved by the Department of Revenue must be attached to the tax return on which the credit is claimed. The credit is limited to a period of 10 years commencing with the approval of the recycling credit application.

A taxpayer is entitled to claim the recycling credits in KRS 141.390(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 9. **Schedule RC-R must be attached. KRS 141.390**

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

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

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

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

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

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

**GED Incentive Tax Credit**—A taxpayer is entitled to a credit against the taxes imposed by KRS 141.020, KRS 141.040 and KRS 141.0401. The credit reflected on this line must equal the sum of the credits reflected on the attached GED-Incentive Program Final Reports. This credit may be claimed only in the year during which the learning contract was completed and unused portions of the credit may not be carried forward or back. For information regarding the program, contact the Education Cabinet, Kentucky Adult Education, Council on Postsecondary Education. The GED-Incentive Program Final Report (DAEL-31) for each employee that completed a learning contract during the tax year must be attached to the tax return claiming the credit. **KRS 151B.127**

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

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

**Environmental Stewardship Tax Credit**—For tax years beginning on or after January 1, 2006, an approved company may be entitled to a credit against the taxes imposed by KRS 141.020, KRS 141.040 or KRS 141.0401 on the income and the LLET of the approved company generated by or arising out of a project as determined under KRS 154.48-020. An “environmental stewardship product” means any new manufactured product or substantially improved existing manufactured product that has a lesser or reduced adverse effect on human health and the environment or provides for improvement to human health and the environment when compared with existing products or competing products that serve the same purpose. A company must have eligible costs of at least \$5 million and within six months after the activation date, the approved company compensates a minimum of 90 percent

of its full-time employees whose jobs were created or retained with base 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, Department of Financial Incentives at (502) 564-4554. **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, KRS 141.040 or KRS 141.0401 shall be allowed for a clean coal facility. As provided by KRS 141.428, a clean coal facility means an electric generation facility beginning commercial operation on or after January 1, 2005, at a cost greater than \$150 million that is located in the Commonwealth of Kentucky and is certified by the 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 subsidiary. **KRS 141.428**

**Ethanol Tax Credit**—Producers of ethanol are entitled to a tax credit against the taxes imposed by KRS 141.020, KRS 141.040 and KRS 141.0401. The taxpayer must file a claim for ethanol credit with the Department of Revenue by January 15 each year for ethanol produced in the previous calendar year. The department shall issue a credit certification (Schedule ETH) to the taxpayer by April 15. The credit certification must be attached to the tax return claiming this credit. **KRS 141.424**

**Cellulosic Ethanol Tax Credit**—Producers of cellulosic ethanol are entitled to a tax credit against the taxes imposed by KRS 141.020, KRS 141.040 and KRS 141.0401. The taxpayer must file a claim for ethanol credit with the Department of Revenue by January 15 each year for cellulosic ethanol produced in the previous calendar year. The department shall issue a credit certification (Schedule CELL) to the taxpayer by April 15. The credit certification must be attached to the tax return claiming this credit. **KRS 141.424**

## TAXPAYER ASSISTANCE

### Forms:

Operations and Support Services Branches  
501 High Street  
Frankfort, KY 40620  
(502) 564-3658  
Web site: [www.revenue.ky.gov](http://www.revenue.ky.gov)  
E-mail: [Financerevenueformsandenvelopes@ky.gov](mailto:Financerevenueformsandenvelopes@ky.gov)



### Information:

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



Department of Revenue  
501 High Street  
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 personal property 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](http://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**, 501 High Street, 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**, 600 West Cedar Street  
2nd Floor West, 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.*





# YOUR RIGHTS

## AS A KENTUCKY TAXPAYER

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

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

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

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

### RIGHTS OF TAXPAYER

#### **Privacy**

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

#### **Assistance**

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

#### **Explanation**

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

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

#### **Protest and Appeal**

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

#### **Conference**

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

#### **Representation**

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

#### **Recordings**

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

#### **Consideration**

You have the right to consideration of:

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

#### **Guarantee**

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

#### **Damages**

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

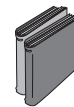
#### **Interest**


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

### DEPARTMENT OF REVENUE RESPONSIBILITIES

The DOR has the responsibility to:

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




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

## PROTEST AND APPEAL PROCEDURE

### Protest

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

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


### Conference

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

### Final Ruling

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

### Appeal

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

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

## TAXPAYER OMBUDSMAN

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

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

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

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

## WHERE TO GET ASSISTANCE

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

### Ashland Taxpayer Service Center

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

### Bowling Green Taxpayer Service Center

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

### Central Kentucky Taxpayer Service Center

501 High Street  
Frankfort 40620  
(502) 564-4581 (*Taxpayer Assistance*)

### Corbin Taxpayer Service Center

15100 North US25E, Suite 2, 40701-6188  
(606) 528-3322

### Hopkinsville Taxpayer Service Center

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

### Louisville Taxpayer Service Center

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

### Northern Kentucky Taxpayer Service Center

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

### Owensboro Taxpayer Service Center

311 West 2nd 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

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

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

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

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DEPARTMENT OF REVENUE

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