



INSTRUCTIONS

2010 KENTUCKY SINGLE MEMBER LLC INDIVIDUALLY OWNED LLET RETURN

PURPOSE OF INSTRUCTIONS

These instructions have been designed for a single member limited liability company (single member LLC) whose single member is an individual, estate, trust or general partnership. A single member LLC is an entity that affords its member, through function of the laws of this state or laws recognized by this state, protection from general liability for actions of the entity. A single member LLC is required by law to file a Kentucky Single Member LLC Individually Owned LLET Return (Form 725).

Refer to the chart on page 3 to determine what tax form your business needs to file.

HOW TO OBTAIN ADDITIONAL FORMS

Forms and instructions are available at all Kentucky Taxpayer Service Centers (see page 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.

KENTUCKY TAX LAW CHANGES

2009 Special Session of the Kentucky General Assembly

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

Certified Rehabilitation Tax Credit—KRS 141.382 was created to provide a refundable tax credit against the taxes imposed by KRS 136.505, KRS 141.020 or 141.040 and KRS 141.0401 for qualified rehabilitation expenses incurred by the taxpayer and used for substantial rehabilitation to a certified historic structure meeting the requirements of KRS 171.396 and 171.397. To qualify as a refundable credit, an application must be received by the Kentucky Heritage Council for preliminary approval on or after April 30, 2010, and the taxpayer must make an election as provided by KRS 171.397(2)(b).

The certified rehabilitation tax credit cap for applications received on or after April 30, 2010, is \$5 million; however, if the total credits awarded for a calendar year are less than the certified rehabilitation tax credit cap, the difference between the credits actually awarded and the certified rehabilitation tax credit cap shall be added to the certified rehabilitation tax credit cap for the next year. If the credit amount approved for a calendar year for all taxpayers exceeds the certified rehabilitation tax credit cap, the council shall apportion the certified rehabilitation tax credit as follows: the certified rehabilitation tax credit cap for the year under consideration shall be multiplied by a fraction, the numerator of which is the approved credit amount for a taxpayer for the calendar year and the denominator of which is the total approved credits for all taxpayers for the calendar year.

Film Industry Tax Credit—KRS 141.383 was created to provide a refundable tax credit against the income tax imposed by KRS 141.020 or 141.040 and the limited liability entity tax imposed by KRS 141.0401 for motion picture or entertainment production expenses authorized by KRS 148.542 to 148.546.

The amount of the incentive shall not exceed: (i) 20% of the approved company's qualifying expenditures; (ii) 20% of

the approved company's qualifying payroll expenditures paid to below-the-line production crew and (iii) 20% of the approved company's qualifying payroll expenditures paid to above-the-line production crew not to exceed \$100,000 in payroll expenditures per employee.

The Tourism Development Finance Authority may accept applications, authorize the execution of tax incentive agreements and enter into tax incentive agreements beginning on June 26, 2009; however, no credit amount shall be claimed by the taxpayer as a refund or paid by the department prior to July 1, 2010. The credit shall be available to approved companies with tax incentive agreements executed before January 1, 2015.

Railroad Maintenance and Improvement Tax Credit—KRS 141.385 created for tax years beginning on or after January 1, 2010, a nonrefundable credit against taxes imposed by KRS 141.020 or 141.040 and KRS 141.0401 in an amount equal to fifty percent (50%) of the qualified expenditures paid or incurred to maintain or improve railroads located in Kentucky, including roadbeds, bridges, and related structures, that are owned or leased as of January 1, 2008, by a Class II or Class III railroad. The credit applies to an owner of any Class II railroad or Class III railroad located in Kentucky or any person who transports property using the rail facilities of a Class II railroad or Class III railroad located in Kentucky or furnishes railroad-related property or services to a Class II railroad or Class III railroad located in Kentucky, but only with respect to miles of railroad track assigned to the person by a Class II railroad or Class III railroad.

The credit allowed shall not exceed the product of \$3,500 multiplied by the sum of: (i) The number of miles of railroad track in Kentucky owned or leased by the eligible taxpayer as of the close of the taxable year; and (ii) The number of miles of railroad track in Kentucky assigned to the eligible taxpayer by a Class II railroad or Class III railroad which owns or leases the railroad track as of the close of the taxable year.

Railroad Expansion Tax Credit—KRS 141.386 created for tax years beginning on or after January 1, 2010, a nonrefundable tax credit against taxes imposed under KRS 141.040 and 141.0401 equal to twenty-five percent (25%) of the expenditures paid or incurred by the corporation or railway company to expand or upgrade railroad track, including roadbeds, bridges, and related track structures, to accommodate the transport of fossil energy resources or biomass resources. The credit applies to: (a) a corporation that owns fossil energy resources subject to tax under KRS 143.020 or 143A.020 or biomass resources and transports these resources using rail facilities; or (b) a railway company subject to tax under KRS 136.120 that serves a corporation that owns fossil energy resources subject to tax under KRS 143.020 or 143A.020 or biomass resources.

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

Each corporation or railway company eligible for the credit provided under this section shall file a railroad expansion tax credit claim on forms prescribed by the department by the fifteenth day of the first month following the close of the preceding calendar year. The department shall determine the amount of the approved credit and issue a credit certificate to the corporation or railway company by the fifteenth day of the third month following the close of the calendar year.

Kentucky Reinvestment Act—KRS 141.415 and KRS 154.34-010 to 154.34-120 were amended effective for tax years beginning after December 31, 2009. To qualify for the incentives, a company shall: (i) incur eligible equipment and related costs of at least \$2.5 million; (ii) agree to maintain a full-time employment base of at least eighty-five percent (85%) at the facility on the date of preliminary approval; and (iii) not have been awarded incentives under Subchapter 26 of KRS Chapter 154 for a period of at least five (5) years prior to applying for incentives under this subchapter.

An approved company shall be eligible to recover up to fifty percent (50%) of the amount expended for eligible equipment and related costs, and up to one hundred percent (100%) of job skills upgrade training costs. The actual amount will be negotiated with the authority. The incentives shall be allowed as a credit against taxes imposed by KRS 141.020 or 141.040 and 141.0401.

Kentucky Business Investment Program—KRS 154.32-010 to 154.32-100 were created effective for tax years beginning after December 31, 2009. Economic Development Project means: (i) the acquisition, leasing, or construction of a new facility, or the acquisition, leasing, rehabilitation, or expansion of an existing facility; and (ii) the installation and equipping of the facility by an eligible company.

Eligible company means an entity with a proposed economic development project that is engaged in or is planning to be engaged in one (1) or more of the following activities within the Commonwealth: (i) manufacturing; (ii) agribusiness; (iii) nonretail service or technology; or (iv) national or regional headquarters operations, regardless of business activity.

Incentives available for a Kentucky Economic Development Project are: (i) tax credits of up to one hundred percent (100%) of the tax imposed by KRS 141.020 or 141.040 and KRS 141.0401; (ii) wage assessment of each new employee subject to Kentucky income tax; and (iii) advance disbursement for a project of more than \$500 million.

Metropolitan College Consortium Tax Credit—KRS 141.381 was created to provide a qualified taxpayer a nonrefundable credit against the tax imposed by KRS 141.020 or 141.040, and KRS 141.0401, for each taxable year beginning on or after July 1, 2010, in the amount of fifty percent (50%) of the actual costs incurred by the qualified taxpayer for: (i) tuition paid to an educational institution for a student participating in the Metropolitan College; and (ii) other educational expenses paid on behalf of a student participating in the Metropolitan College; on behalf of employees of the qualified corporation, for up to 2,800 employees.

A qualified taxpayer means any taxpayer who, on June 26, 2009, is a party to the Metropolitan College Consortium Agreement approved November 5, 2005.

2010 Regular Session of the Kentucky General Assembly

Kentucky Rural Economic Development Act—KRS 154.22-050 was amended to allow a company with the approval of the Kentucky Economic Development Finance Authority to extend the length of a project agreement from 15 years to 25 years. The incentives established by the existing tax incentive agreement cannot be increased. **HB 287**

Incentives for Energy Independence Act—KRS 143.024 and KRS 154.27-010 were amended to include as an eligible project an energy-efficient alternative fuel facility having a minimum capital investment of \$25 million. An energy-efficient alternative fuel facility means a facility located in Kentucky that is newly constructed on or after August 30, 2010, or an existing facility located in Kentucky that is retrofitted or upgraded on or after August 30, 2010, and that, after the new construction, retrofit, or upgrade, will produce for sale energy-efficient alternative fuels. For a retrofit of an existing facility, the new modification or addition within the facility shall produce for sale energy-efficient alternative fuels. **HB 552**

2010 Special Session of the Kentucky General Assembly

HB 2—Provisions effective for tax years beginning on or after January 1, 2010

Domestic Production Activities Deduction (DPAD)—KRS 141.010(13) was amended effective for tax years beginning on or after January 1, 2010, to provide that the rate for purposes of computing the Kentucky DPAD shall be six percent (6%) in lieu of the rate provided by IRC §199(a).

Film Industry Tax Credit—KRS 148.546 was amended to provide that the maximum amount of film industry tax credit allowed as provided by KRS 141.383 is \$5 million for fiscal year ending June 30, 2011 and \$7.5 million for fiscal year ending June 30, 2012.

Kentucky Reinvestment Act—KRS 154.34-120 was amended to provide that a company which receives preliminary approval of a project on or after February 1, 2010, the amount of incentives allowed in any tax year shall not exceed the lesser of: (i) the tax liability of the approved company related to the reinvestment project for that taxable year; (ii) twenty percent (20%) of the total amount of the approved costs; or (iii) the approved costs that have not yet been recovered.

New Markets Development Tax Credit—New sections of KRS 141 were created effective June 4, 2010, to provide a taxpayer that makes a qualified equity investment in a qualified community development entity a tax credit against the income tax provided by KRS 141.040 or 141.020 and LLET provided by KRS 141.0401. The credit is equal to 39 percent of the purchase price of the qualified equity investment and shall be claimed by the investor over the course of seven years as follows: (i) zero percent (0%) for each of the first two (2) years including the year the investment is made; (ii) seven percent (7%) on the third anniversary date of the investment; and (iii) eight

percent (8%) for each of the next four anniversary dates of the investment.

New markets development tax credits may be recaptured if: (i) any amount of the federal new markets development credit available to the qualified equity investment is recaptured; (ii) the qualified community development entity redeems or makes a principal repayment with respect to the qualified equity investment prior to the final credit allowance date; or (iii) the qualified community development entity fails to invest at least eighty-five percent (85%) of the purchase price of the qualified equity investment in businesses located in

low-income communities within twenty-four (24) months of the issuance of the securities or fails to maintain the level of investment until the last credit allowance date.

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

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

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

Tax Treatment of an Individually Owned Single Member Limited Liability Company and the Individual Owner

For taxable years beginning on or after January 1, 2007, a limited liability company that affords its single member, through function of the laws of this state or laws recognized by this state, protection from general liability for actions of the entity is classified as a limited liability pass-through entity as provided by KRS 141.010(28). Also, for taxable years beginning on or after January 1, 2007, an annual limited liability entity tax (LLET) shall be paid by every corporation and every limited liability pass-through entity doing business in Kentucky on all Kentucky gross receipts or Kentucky gross profits as provided by KRS 141.0401(2), unless specifically excluded. See LLET nonfiling status codes on page 7 of these instructions.

A single member LLC whose single member is an individual shall file a Kentucky Single Member LLC Individually Owned LLET Return (Form 725). A single member LLC and any lower-tier single member LLC shall be treated as one entity in determining the limited liability tax. An individual who owns more than one single member LLC can file Schedule CP, Kentucky Single Member LLC Individually Owned Composite Return Schedule rather than filing multiple forms (Form 725). See instructions on page 9 regarding Schedule CP.

A resident or nonresident individual single member shall be entitled to a nonrefundable LLET credit against income tax imposed by KRS 141.020 (Kentucky individual income tax). The nonrefundable LLET credit allowed a member shall be the LLET for the current year after the subtraction of any credits identified in KRS 141.0205 and reduced by \$175. The credit allowed a member shall be applied to the income tax assessed on income from the single member LLC. Any remaining credit from the single member LLC 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)**

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), from the Taxpayer Registration Section, Department of Revenue, Frankfort, KY 40620, or at www.revenue.ky.gov (click on Business). The application may be faxed to (502) 227-0772.

Who Must File—**NOTE:** The limitations imposed and protections provided by the United States Constitution or Pub. L. No. 86-272 do not apply to the limited liability entity tax imposed by KRS 141.0401. A Kentucky Single Member LLC Individually Owned LLET Return (Form 725) must be filed by every single member limited liability company (single member LLC) whose single

member is an individual, estate, trust or general partnership, that is doing business in this state which 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 pass-through entity doing business in this state; (f) deriving income from or attributable to sources within this state, including deriving income directly or indirectly from a trust doing business in this state, or deriving income directly or indirectly from a single member limited liability company that is doing business in this state and is disregarded as an entity separate from its single member for federal income tax purposes; or (g) directing activities at Kentucky customers for the purpose of selling them goods or services. **KRS 141.010(25), KRS 141.0401, KRS 141.200 and KRS 141.206**

Disregarded Entities—A single member LLC owned by an individual, estate, trust or general partnership is treated in the same manner as it is treated for federal income tax purposes. Consequently, an individual, estate, trust or general partnership filing a Kentucky tax return will include the activity of any single member LLC when filing the applicable Kentucky return. However, a single member LLC is classified as a limited liability pass-through entity as provided by KRS 141.010(28) and is subject to the limited liability entity tax as provided by KRS 141.0401(2). A single member LLC whose single member is an individual, estate, trust or general partnership must file a Kentucky Single Member LLC Individually Owned LLET Return (Form 725) to report and pay any LLET that is due.

Pass-through Entity—A single member LLC owned by an individual, estate, trust or general partnership that is doing business in Kentucky solely as a partner or member in a pass-through entity will file Form 725 pursuant to the provisions of KRS 141.010, 141.0401 and 141.206. (See Schedule A—Apportionment and Allocations Instructions and Schedule A-C—Apportionment and Allocation—Continuation Sheet).

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 Distributive Share Income Transmittal Report and Composite Income Tax Return,” 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 15th day of the fourth month following the close of the pass-through entity's taxable year. Also, Copy B and C of Form PTE-WH shall be provided to the partners, members or shareholders. Form 740NP-WH and Form PTE-WH are available at www.revenue.ky.gov.

Composite Return—Nonresidents Only

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

The composite return applies only to nonresident individual (includes an estate or trust partner, member or shareholder) partners, members or shareholders: (i) whose distributive share income was not subject to withholding as provided by KRS 141.206(4); (ii) whose only source of distributive share income within this state is from one or more pass-through entities; and (iii) that elect 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 740NP-WH, Kentucky Nonresident Income Tax Withholding on Distributive Share Income Transmittal Report and Composite Income Tax Return. The composite return box on the front of Form 740NP-WH must be checked to indicate that it is a composite return, and a Form PTE-WH must be completed for each of the electing nonresident individual partners, members or shareholders. The composite return box on each Form PTE-WH must be checked to indicate that the PTE-WH is a result of a composite return. Form 740NP-WH and Copy A of Form PTE-WH shall be mailed to the Kentucky Department of Revenue with payment of tax due by the 15th day of the fourth month following the close of the pass-through entity's taxable year. Also, Copy B and C of Form PTE-WH shall be provided to the partners, members or shareholders included in the composite return. 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—A 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 attach 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. Kentucky Single Member LLC Individually Owned LLET Return (Form 725)
2. Kentucky Single Member LLC Individually Owned Composite Return Schedule (Schedule CP)
3. Apportionment and Allocation (Schedule A)
4. Apportionment and Allocation—Continuation Sheet (Schedule A-C)
5. Limited Liability Entity Tax (Schedule LLET)
6. Limited Liability Entity Tax—Continuation Sheet (Schedule LLET-C)
7. Application for Filing Extension (Form 41A720SL)
8. Tax Credit Summary Schedule (Schedule TCS)

Required Federal Form and Schedules

All single member LLC entities **must** provide a copy of the following federal forms which were submitted to the Internal Revenue Service:

1. Form 1040, Form 1041 or Form 1065 (all pages)
2. Schedule C—Profit or 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—Farm Rental Income and Expenses

Electronic Funds Transfer (EFT)

EFT is not available for a single member limited liability company's LLET payments, estimated tax payments, return payment or extension payment.

Accounting Procedures—Kentucky income tax law requires a taxpayer 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 Single Member LLC Individually Owned LLET 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 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 LLET 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 Kentucky Corporation or Limited Liability Pass-through Entity Return, 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. **103 KAR 15:050**

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

LLET Estimated Taxes

The Corporation Income/Limited Liability Entity Tax Estimated Tax Voucher, Form 720-ES, is used to submit estimated tax payments for LLET. If the single member LLC is required to make estimated LLET payments but did not receive Form 720-ES, contact the Department of Revenue at (502) 564-3658 or visit the Web site at www.revenue.ky.gov.

NOTE: See www.revenue.ky.gov for information on the 2011 estimated tax payments.

Estimated Tax Payments—A single member LLC must make estimated tax installments if its tax liability under KRS 141.0401 can reasonably be expected to exceed \$5,000. Estimated tax installments are required as follows:

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

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

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

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

Interest: Failure to pay estimated tax installments on or before the due date prescribed by KRS 141.042 and 141.044 shall result in an assessment of interest on the late payment or underpayment. The interest due on any late payment or underpayment shall be at the rate provided by KRS 131.183(1). **KRS 131.183(2) and KRS 141.042(4)**

Other Information

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 the LLET liability not paid by the date prescribed by law for filing the return (determined without regard to extensions thereof). The tax interest rate for 2011 is available online at www.revenue.ky.gov or you may contact the Department of Revenue at (502) 564-8139 to obtain the tax interest rate.

Penalties

Failure to file an LLET return by the filing date including extensions—2 percent of the tax due for each 30 days or fraction thereof that the return is late (maximum 20 percent). The minimum penalty is \$10. **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 LLET by the payment date—2 percent of the tax due for each 30 days or fraction thereof that the payment is overdue (maximum 20 percent). The minimum penalty is \$10. **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 LLET return or furnish information requested in writing—5 percent of the tax assessed for each 30 days or fraction thereof that the return is not filed or the information is not submitted (maximum 50 percent). The minimum penalty is \$100. **KRS 131.180(4)**

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

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

Cost of Collection Fees

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

FORM 725—SPECIFIC INSTRUCTIONS

Period Covered

File the 2010 return for calendar year 2010 and fiscal years that begin in 2010. 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:

 1 / 1
Mo. Yr.

- A fiscal year is 12 consecutive months ending on the last day of any month except December. A fiscal year ending January 31, 2011, would be entered as:

 0 / 1
Mo. Yr.

- A 52/53-week year is a fiscal year that varies between 52 and 53 weeks. Example: A 52/53-week year ending the first week of January 2011, would be entered as:

 1 / 1
Mo. Yr.

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

Item A—Enter the six-digit Kentucky Corporation/LLET Account Number on the applicable line at the top of each form and schedule and also on all checks and correspondence. This number was included in correspondence received from the Department of Revenue at the time of registration. **If a composite return (Schedule CP) is being filed, leave account number blank.**

If the Kentucky Corporation/LLET Account Number is not known, telephone (502) 564-8139.

Item B—Check the box indicating the method used in determining the amount of LLET due on Schedule LLET, Section D, Line 1. **If a composite return (Schedule CP) is being filed, do not complete Item B.**

LLET Nonfiling Status Code—Return not Required

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

REASON CODE	Reason
12	A property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390.
13	An alcohol production facility as defined in KRS 247.910.
21	A qualified investment pass-through entity as defined in KRS 141.206(12).

Item C—If Schedule CP is being filed, see Specific Instructions on page 9 of these instructions on what information should be completed on Item C.

If filing a Form 725, Kentucky Single Member LLC Individually Owned LLET Return, enter the following:

Federal Identification Number—Enter the federal identification number, if the single member LLC has obtained this number.

Name and Address—Print or type the name of the single member LLC 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 single member LLC has a P.O. Box, show the box number instead of the street address.

Telephone Number—Enter the business telephone number of the member.

State and Date of Organization—Enter the entity's state and date of organization.

Principal Business Activity in KY—Enter the entity's principal business activity in Kentucky.

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

Item D—Check the applicable boxes:

- (a) *Qualified Investment Pass-through Entity*—Check this box if the single member LLC is a qualified investment pass-through entity as provided by KRS 141.206(12)(a).
- (b) *Initial Return*—Check this box if this is the single member LLC's first time filing a single member LLC return in Kentucky.
- (c) *Final Return*—Check this box if this is the single member LLC's final return. If the organization has dissolved or withdrawn, attach an explanation.
- (d) *Amended Return*—Check this box if this is an amended return. Attach statement giving explanation of changes to income and LLET.
- (e) *Short-period Return*—Check this box and submit an explanation for a short-period that is not an initial return.
- (f) *Change of Name*—Check this box if the single member LLC has changed its name.
- (g) *Change of Address*—Check this box if the single member LLC has changed its address.
- (h) *Change of Accounting Period*—Check this box if the single member LLC has changed its accounting period.

Item E—Check applicable box to indicate whether the single member is filing a composite return or a single return.

PART I—KENTUCKY NET DISTRIBUTABLE INCOME

Line 1—Enter the ordinary income from Form 1040, Form 1041 or Form 1065, adjusted to reflect differences in federal and Kentucky tax laws, such as depreciation. Attach Schedule C (Form 1040), Schedule F (Form 1040), Schedule E (Form 1040), Form 1065 or other applicable forms to return. If Schedule C, Schedule F, Schedule E, Form 1065 or other applicable forms contain activity of both the individual and single member LLC, prepare a pro forma schedule which contains only the activity of the single member LLC.

Line 2—Enter the net income (loss) from rental real estate activities from Form 1040, Form 1041 or Form 1065, adjusted to reflect differences in federal and Kentucky tax laws, such as depreciation. Attach Schedule E (Form 1040), Form 4835, Form 1065 or other applicable forms to return. If Schedule E, Form 4835, Form 1065 or other applicable forms contain activity of both the individual and single member LLC, prepare a pro forma schedule which contains only activity of the single member LLC.

Line 3—Enter the net income (loss) from other rental activities from Form 1040, Form 1041 or Form 1065, adjusted to reflect differences in federal and Kentucky tax laws, such as depreciation. Attach Schedule C (Form 1040), Form 1065 or other applicable forms to return. If Schedule C, Form 1065 or other applicable forms contain activity of both the individual and single member LLC, prepare a pro forma schedule which contains only activity of the single member LLC.

Line 4—Enter the interest income earned by the single member LLC (attach schedule).

Line 5—Enter the dividend income earned by the single member LLC (attach schedule).

Line 6—Enter the royalty income from Form 1040, Form 1041 or Form 1065, adjusted to reflect differences in federal and Kentucky tax laws, such as depreciation. Attach Schedule E (Form 1040), Form 1065 or other applicable forms to return. If Schedule E, Form 1065 or other applicable forms contain activity of both the individual and single member LLC, prepare a pro forma schedule which contains only activity of the single member LLC.

Line 7—Enter the short-term and long-term capital gain (loss) from Form 1040, Form 1041 or Form 1065, adjusted to reflect differences in federal and Kentucky tax laws. If a net (loss), do not include more than \$3,000. Attach Schedule D (Form 1040), Schedule D (Form 1041), Schedule D (Form 1065) or other applicable forms to return. If Schedule D or other applicable forms contain activity of both the individual and single member LLC, prepare a pro forma schedule which contains only activity of the single member LLC.

Line 8—Enter the Section 1231 gain or (loss) from Form 4797 or Form 1065 adjusted to reflect differences in federal and Kentucky tax laws. Attach Form 4797, Form 1065 or other applicable forms to return. If Form 4797, Form 1065 or other applicable forms contain activity of both the individual and single member LLC, prepare a pro forma schedule which contains only activity of the single member LLC.

Line 9—Enter the total of any other income (attach schedule).

Line 10—Enter the total of deductions not included on Lines 1 through 9, if any (attach schedule).

Line 11—Enter the total of Lines 1 through 9 less Line 10.

Line 12—Enter 100 percent if the single member limited liability company is doing business only in Kentucky or the percentage from Schedule A (Form 41A720A), Section I, Line 12 if the single member limited liability company is doing business within and without Kentucky. Attach Schedule A to Form 725 filed with the department.

For purposes of determining the income to enter on Line 2 of the Kentucky Limited Liability Entity Tax Credit Worksheet included in the instructions for Forms 740, 740-NP or 741, multiply Line 11 by the percentage on Line 12.

Note: If Form 8582-K is required, adjust the amount entered on Line 11 to exclude any income, loss, deduction or expense related to a passive activity. If the amount on Line 7 (Net short-term and long-term capital loss) is subject to a capital loss limitation, adjust the amount entered on Line 11 to exclude the loss not allowed.

PART II—LLET COMPUTATION

Line 1—Enter the amount from Schedule LLET, Section D, Line 1. A single member LLC must use Schedule LLET(K), Limited Liability Entity Tax (For a Limited Liability Pass-through Entity with Economic Development Project(s)), if the single member LLC 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), Kentucky Industrial Revitalization Act (KIRA), Kentucky Job Retention Act (KJRA), Kentucky Reinvestment Act (KRA), Incentives for Energy Independence (IEIA) or Kentucky Business Investment Program (KBI).

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

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

Line 4—Enter nonrefundable LLET credit from Schedule(s) Kentucky K-1. **Copies of Kentucky Schedule(s) K-1 must be attached to the tax return in order to claim the credit.**

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

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

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

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

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

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

Line 11—Enter the amount credited to 2010 from Form 725, Part II, Line 12 of the 2009 tax return.

Line 12—If Line 6 is greater than the total of Lines 7 through 11, enter the difference on this line and enter the amount in the Tax Payment Summary.

Line 13—If Line 6 is less than the total of Lines 7 through 11, enter the difference on this line.

Line 14—Enter the portion of Line 13 to be credited to 2011 LLET.

Line 15—Enter the portion of Line 13 to be refunded (Line 13 less Line 14).

PART III—LLET CREDIT FOR MEMBER

Line 1—Enter the LLET paid from Part II, the total of Lines 4 and 6.

Line 2—Minimum tax \$175.

Line 3—Enter Line 1 less Line 2.

Tax Payment Summary—The payment due with Form 725 must be itemized. Enter the amount of the tax payment due from Part II, Line 12, on the LLET due line, the amount of penalty due on the Penalty line, the amount of interest due on the Interest line, and the total payment due on the Total Payment line.

SCHEDULE CP—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 LLET Return(s) (Form 725). Schedule CP (and if needed, additional Schedule(s) CP) should be attached to Form 725. **If Schedule CP is being filed, complete only the following items on Form 725:**

Item C—Enter the single member individual's Social Security number, name, address and telephone number in applicable box.

Item E—Check the box to indicate that a composite return (Schedule CP) is being filed.

After completing Items C and E and Schedule(s) CP, the signature block on the bottom of Form 725, page 2 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 of Schedule CP, enter the owner's name and Social Security number in the applicable blocks.

Schedule CP has four columns, one column for each single member LLC owned. If you have more than four single member LLC entities, attach additional Schedule(s) CP as needed. Enter the following information in each column:

Item A—Enter the six-digit Kentucky Corporation/LLET Account Number on the applicable line at the top of each column and schedule and also on all checks and correspondence.

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

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

LLET Nonfiling Status Code—Return Not Required

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

REASON CODE	Reason
12	A property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390.
13	An alcohol production facility as defined in KRS 247.910.
21	A qualified investment pass-through entity as defined in KRS 141.206(12).

Item C—Enter the name and federal identification number of the single member LLC.


Item D—Check the applicable boxes to indicate that the single member LLC is a qualified investment pass-through entity as provided by KRS 141.206(12)(a), filing an initial return or filing a final return.

Item E—Check the box to indicate whether disregarded single member LLC(s) are included in the return and attach a schedule of these disregarded entities.

For each Kentucky single member LLC listed, complete applicable lines of Part I through Part III using the instructions for Form 725, Part I through Part III on pages 8 and 9 of these instructions.

Tax Payment Summary—Schedule(s) CP

Complete the Tax Payment Summary for each Kentucky single member LLC listed. One payment can be submitted with Schedule(s) CP for all taxes, interest and penalty due. **Each entity is a separate entity and a refund from one entity cannot be used to reduce the liability of another entity. Do not enter tax payment information on Form 725.**

 **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

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

Economic Development Tax Credits—This section is completed only if a taxpayer has been approved for one of more of the credits authorized by the: (i) Kentucky Rural Economic Development Act (KREDA—KRS 154.22); (ii) Metropolitan College Consortium (MCC—KRS 141.381); (iii) Kentucky Industrial Development Act (KIDA—KRS 154.28); (iv) Kentucky Economic Opportunity Zone Act (KEOZ—KRS 154.23); (v) Kentucky Jobs Retention Agreement (KJRA—KRS 154.25); (vi) Kentucky Industrial Revitalization Act (KIRA—KRS 154.26); (vii) Kentucky Jobs Development Act (KJDA—KRS 154.24); (viii) Kentucky Business Investment Program (KBI—KRS 154.32); (ix) Kentucky Reinvestment Act (KRA—KRS 154.34); (x) Skills Training Investment Credit Act (STICA—KRS 154.12); or (xi) Incentives for Energy Independence Act (IEIA—KRS 154.27).

To qualify for the KREDA, KIDA, KEOZ, KJRA, KIRA, KJDA, KRA, IEIA or KBI credits, the taxpayer 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 taxpayer. **To claim any of these credits, the applicable tax credit schedule or schedules must be attached to the tax return.**

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

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

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

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

Unemployment Tax Credit—If a taxpayer has hired a Kentucky resident classified as unemployed for at least 60 days and the resident remains in the employ of the taxpayer for 180 consecutive days during the tax year (a qualified person), the taxpayer may be entitled to the unemployment tax credit against the taxes imposed by KRS 141.020, KRS 141.040 and KRS 141.0401. For each qualified person, a one-time nonrefundable credit of \$100 may be claimed. The period

of unemployment must be certified by the Education and Workforce Development Cabinet, Department of Workforce Investment, Office of Employment and Training, Frankfort, KY, and a copy of the certification must be maintained by the taxpayer. For certification questions, call (502) 564-7456. Schedule UTC must be attached to the return claiming this credit. **KRS 141.065**

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

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

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

Coal Conversion Tax Credit—A corporation which converts boilers from other fuels to Kentucky coal or which substitutes Kentucky coal for other fuels in a boiler capable of burning coal and other fuels to produce energy for specific purposes may be entitled to a credit against the taxes imposed by KRS 141.040 and KRS 141.0401 equal to 4.5 percent of expenditures for Kentucky coal (less transportation costs). Unused portions of this credit may not be carried forward or back. Schedule CC must be attached to the tax return claiming this credit. **KRS 141.041**

Kentucky Investment Fund Tax Credit—A taxpayer which makes a cash contribution to an investment fund approved by KEDFA in accordance with KRS 154.20–250 to 154.20–284 is entitled to a nonrefundable credit equal to 40 percent of the investor's

proportional ownership share of all qualified investments made by the investment fund and verified by the authority. The credit may be applied against the taxes imposed by KRS 141.020, KRS 141.040, KRS 141.0401, KRS 136.320, KRS 136.300, KRS 136.310, KRS 136.505 and KRS 304.3–270. **A copy of the notification from KEDFA reflecting the amount of credit granted and the year in which the credit may first be claimed must be attached to the tax return claiming this credit.**

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

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

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

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

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

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

Voluntary Environmental Remediation Tax Credit—The taxpayer must have an agreed order and be approved by the Energy and Environment Cabinet under the provisions of KRS 224.01–518. Maximum tax credit allowed to be claimed per taxable year is 25 percent of the approved credit. This credit may be claimed against the taxes imposed by KRS 141.020, KRS 141.040 and KRS 141.0401. For more information regarding

credit for voluntary environmental remediation property, contact the Energy and Environment Cabinet at (502) 564–3350. Schedule VERB must be attached to the tax return claiming this credit. **KRS 141.418**

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

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

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

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

Clean Coal Incentive Tax Credit—Effective for tax years ending on or after December 31, 2006, a nonrefundable, nontransferable credit against taxes imposed by KRS 136.120, KRS 141.020, KRS 141.040 or KRS 141.0401 shall be allowed for a clean coal facility. As provided by KRS 141.428, a clean coal facility means an electric generation facility beginning commercial operation on or after January 1, 2005, at a cost greater than \$150 million that is located in the Commonwealth of Kentucky and is certified by the Energy and Environment Cabinet as reducing emissions of pollutants released during generation of electricity through the use of clean coal equipment and technologies. The amount of the credit shall be \$2 per ton of eligible coal purchased that is used to generate

electric power at a certified clean coal facility, except that no credit shall be allowed if the eligible coal has been used to generate a credit under KRS 141.0405 for the taxpayer, parent or subsidiary. **KRS 141.428**

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

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

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

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

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

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

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

(v) For commercial property, 30% of the installed cost of an energy-efficient heating, cooling, ventilation, or hot water system that meets the requirements for the federal energy-efficient commercial building deduction under 26 U.S.C. § 179D, as it existed on December 31, 2007. The total credit is limited to \$500. **KRS 141.436**

ENERGY STAR Home or ENERGY STAR Manufactured Home Tax Credit—A nonrefundable tax credit against the tax imposed under KRS 141.040, and KRS 141.0401 is allowed if

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

Railroad Maintenance and Improvement Tax Credit—For tax years beginning on or after January 1, 2010, an owner of any Class II railroad or Class III railroad located in Kentucky or any person who transports property using the rail facilities of a Class II railroad or Class III railroad located in Kentucky or furnishes railroad-related property or services to a Class II railroad or Class III railroad located in Kentucky, but only with respect to miles of railroad track assigned to the person by a Class II railroad or Class III railroad, shall be entitled to a nonrefundable credit against taxes imposed by KRS 141.020 or 141.040 and KRS 141.0401 in an amount equal to fifty percent of the qualified expenditures paid or incurred to maintain or improve railroads located in Kentucky, including roadbeds, bridges, and related structures, that are owned or leased as of January 1, 2008, by a Class II or Class III railroad.

The credit allowed shall not exceed the product of \$3,500 multiplied by the sum of: (i) The number of miles of railroad track in Kentucky owned or leased by the eligible taxpayer as of the close of the taxable year; and (ii) The number of miles of railroad track in Kentucky assigned to the eligible taxpayer by a Class II railroad or Class III railroad which owns or leases the railroad track as of the close of the taxable year. **KRS 141.385**

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

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

Each corporation or railway company eligible for the credit provided under this section shall file a railroad expansion tax credit claim on forms prescribed by the department by the fifteenth day of the first month following the close of the preceding calendar year. The department shall determine the amount of the approved credit and issue a credit certificate to the corporation or railway company by the fifteenth day of the third month following the close of the calendar year. **KRS 141.386**

TAXPAYER ASSISTANCE

Forms:

Operations and Support Services Branches
501 High Street
Frankfort, KY 40601-2103
(502) 564-3658
Web site: www.revenue.ky.gov
E-mail: Financerevenueformsandenvelopes@ky.gov



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.

Information:

Division of Corporation Tax
Department of Revenue
P.O. Box 1302
Frankfort, KY 40602-1302



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

KENTUCKY TAXPAYER SERVICE CENTERS

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

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

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

Central Kentucky, 501 High Street, Frankfort, 40601-2103
(502) 564-5930
(502) 564-4581 (*Taxpayer Assistance*)

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

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

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

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

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

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

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

**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.

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YOUR RIGHTS AS A KENTUCKY TAXPAYER

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

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

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

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

RIGHTS OF TAXPAYER

Privacy

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

Assistance

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

Explanation

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

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

Protest and Appeal

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

Conference

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

Representation

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

Recordings

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

Consideration

You have the right to consideration of:

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

Guarantee

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

Damages

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

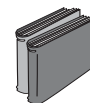
Interest


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

DEPARTMENT OF REVENUE RESPONSIBILITIES

The DOR has the responsibility to:

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




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

PROTEST AND APPEAL PROCEDURE

Protest

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

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


Conference

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

Final Ruling

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

Appeal

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

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

TAXPAYER OMBUDSMAN

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

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

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

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

WHERE TO GET ASSISTANCE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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Commonwealth of Kentucky
DEPARTMENT OF REVENUE

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