



# INSTRUCTIONS

## 2012 KENTUCKY PARTNERSHIP INCOME AND LLET RETURN

### PURPOSE OF INSTRUCTIONS

These instructions have been designed for Kentucky partnerships that afford their partners or members, through function of the laws of this state or laws recognized by this state, protection from general liability for actions of the entity. These partnerships are required by law to file a Kentucky Partnership Income and LLET Return (Form 765).

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

### HOW TO OBTAIN ADDITIONAL FORMS

Forms and instructions are available at all Kentucky Taxpayer Service Centers (see page 16). They may also be obtained by writing FORMS, Department of Revenue, 501 High Street, Frankfort, KY 40601-2103, or by calling (502) 564-3658. Forms can be downloaded from [www.revenue.ky.gov](http://www.revenue.ky.gov).

## KENTUCKY TAX LAW CHANGES

### 2012 Regular Session of the General Assembly

#### HB 246 – Provisions effective July 12, 2012

**Metropolitan College Tax Credit**—KRS 141.381 was amended to extend the expiration date of the Metropolitan College tax credit from April 15, 2013, to April 15, 2017.

#### HB 341—Provisions effective July 12, 2012

**Statutory Trusts**—KRS Chapter 386A was created to allow an entity to organize as a statutory trust or a series statutory trust. Section 5 of HB 341 provides that for purposes of KRS 141.0401, each statutory trust and foreign statutory trust and each series of a series statutory trust or a foreign series statutory trust shall be treated as a limited liability pass-through entity. A statutory trust has perpetual existence and affords its beneficial owner and trustee protection from general liability. A statutory trust may have one or more series and each series shall be separate for all purposes including general liability.

Section 18 of HB 341 provides that a statutory trust may be organized for any lawful purpose, except a statutory trust may not: (i) have a predominantly donative purpose; or (ii) be organized for the purpose of rendering a professional service.

#### HB 400—Provisions effective July 12, 2012

**Kentucky Job Retention Agreements**—KRS 154.25-010 was amended to expand eligible companies to include North American Industry Classification Codes: 325211, 325510, 326199, 327211, 327212, 327215, 331111, 331221, 331521, 332312, 332813, 33299, 335110, 335911, 335912, 423510, 493110, 541614, 551114, and 561439. An eligible company must: (i) employ a minimum of one-thousand (1,000) full-time persons engaged in automobile or automobile parts or supplies manufacturing; (ii) have been operating within the Commonwealth on a continuous basis for at least five (5) years preceding the request for approval by the Kentucky Economic Development Finance Authority of the project which meets the standards set forth in KRS 154.25-020; and (iii) have been previously approved

for economic development incentives by the Commonwealth related to one (1) or more of its facilities.

#### HB 441—Provisions effective July 12, 2012

**Limited Cooperative Associations**—KRS Chapter 272A was created to allow an entity to organize as a limited cooperative association. Section 8 of HB 441 provides that for purposes of KRS 141.0401, each limited cooperative association with investor members shall be treated as a limited liability pass-through entity, except to the extent of patronage activities or dividends. A limited cooperative association shall have perpetual existence unless the articles of association state a term for the limited cooperative association's existence, and affords its members protection from general liability. Section 5 of HB 441 provides that a limited cooperative association may be organized for any lawful purpose, whether or not for profit.

#### HB 444—Provisions effective for tax years beginning on or after January 1, 2010

**Qualified Air Freight Forwarders**—KRS 141.121 was amended to provide that a qualified air freight forwarder's apportionment factor shall be determined as follows: (i) the property factor shall be determined as provided in KRS 141.120(8)(a); (ii) the payroll factor shall be determined as provided in KRS 141.120(8)(b); and (iii) the sales factor shall be determined as provided in KRS 141.120(8)(c), except freight forwarding revenues shall be included in the numerator of the sales factor by multiplying the freight forwarding revenues by a fraction, the numerator of which is miles operated in Kentucky by the affiliated airline of the qualified air freight forwarder and the denominator of which is the total miles operated by the affiliated airline of the qualified air freight forwarder.

#### HB 539—Provisions effective July 12, 2012

**Kentucky Industrial Revitalization Act**—KRS 154.26-010 was amended to allow a supplemental project during the term of a previously approved Kentucky Industrial Revitalization Act project. A supplemental project eligible company means an

approved company that: (i) has expended approved costs of at least \$50 million on an existing approved Kentucky Industrial Revitalization Act project; and (ii) employs a minimum of seven hundred fifty (750) employees at the site of the Kentucky Industrial Revitalization Act project.

The agreement for a Kentucky Industrial Revitalization Act project shall not be longer than the earlier of: (i) the date on

which the approved company has received inducements or withheld assessments equal to the amount that the company may recover; or (ii) ten (10) years from the date of the execution of the agreement or any longer term negotiated as part of an amended agreement not to exceed an additional ten (10) years, for a maximum of twenty (20) years if a supplemental project is approved.

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

## IMPORTANT

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

**Depreciation, Section 179 Deduction and Gains/Losses From Disposition of Assets**—For taxable years beginning after December 31, 2001, Kentucky depreciation and Section 179 deduction are determined in accordance with the Internal Revenue Code in effect on December 31, 2001. For calendar year 2012 returns and fiscal year returns that begin in 2012, a partnership that for federal purposes elects in the current taxable year or has elected in past taxable years any of the following will have a different depreciation and Section 179 expense deduction for Kentucky:

- MACRS bonus depreciation; or
- Section 179 expense deduction in excess of \$25,000.

If a partnership has taken MACRS bonus depreciation or Section 179 expense deduction in excess of \$25,000 for any year, federal and Kentucky differences will exist, and the differences will continue through the life of the assets.

**Important:** If a partnership has not taken MACRS bonus depreciation or the Section 179 expense deduction in excess of \$25,000 for any 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 to substantiate that no adjustment is required.**

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

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

**Determining and Reporting Differences in Gain or Loss From Disposition of Assets—If during the year the 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 corporation will need to determine and report the difference in the amount of gain or loss on such assets as follows:**

1. Convert **federal Schedule D (Form 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 Schedule D, Line 7 on Form 765, Schedule K, Section I, Line 4(d) or 7. Enter the amount from Kentucky converted Schedule D, Line 15 on Form 765, Schedule K, Section I, Line 4(e) or 7. **Federal Schedule D (Form 1065) filed with the federal return and the Kentucky Schedule D (Form 1065) must be attached to Form 765.**
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 Form 4797, Line 17 is a gain; enter this amount on Schedule O–PTE, Part I, Line 2. If the amount on Kentucky Form 4797, Line 17 is a loss; enter this amount on Schedule O–PTE, Part II, Line 2. **Federal Form 4797 filed with the federal return and the Kentucky Form 4797 must be attached to Form 765.**

## **Tax Treatment of a Partnership (Afforded Limited Liability Protection) and Partners or Members**

For taxable years beginning on or after January 1, 2007, a partnership that affords any of its partners or members, 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 limited liability pass-through entity as provided by KRS 141.010(28). Also, for taxable years beginning on 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.

In determining tax as provided by KRS Chapter 141, a resident individual, estate or trust that is a partner or member of a partnership classified as a limited liability pass-through entity shall take into account the partner's or member's total distributive share of the partnership's items of income, loss and deduction. In determining tax as provided by KRS Chapter 141, a nonresident individual, estate or trust that is a partner or member of a partnership shall take into account: (1) if the partnership is doing business only in this state, the partner's or member's total distributive share of the partnership's items of income, loss and deduction; or (2) if the partnership is doing business both within and without this state, the partner's or member's total distributive share of the partnership's items of income, loss and deduction multiplied by the apportionment fraction as provided by KRS 141.206(12). **KRS 141.206(8) and (9)**

In determining tax as provided by KRS Chapter 141, a corporation that is a partner or member of a partnership shall take into account its total distributive share of the partnership's items of income, loss and deduction. **KRS 141.206(10)**

A corporation that owns an interest in a partnership classified as a limited liability pass-through entity or that owns an interest in a general partnership organized or formed as a general partnership after January 1, 2006, shall include the proportionate share of the sales, property and payroll of the partnership classified as a limited liability pass-through entity or general partnership in computing its own apportionment factor. **KRS 141.206(10)**

If a pass-through entity is doing business both within and without this state and is a partner or member in another pass-through entity, the pass-through entity shall include its pro rata share of the sales, property and payroll of the other pass-through entity in computing its own apportionment factor. **KRS 141.206(11)**

The LLET credit allowed partners or members of a partnership classified as a limited liability pass-through entity shall be the partners' or members' proportionate share of the LLET for the current year after the subtraction of any credits identified in KRS 141.0205 and reduced by \$175. The credit allowed partners or members shall be applied to the income tax assessed on income from the partnership. Any remaining credit from the partnership 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 partnership should complete a Kentucky Tax Registration Application, Revenue Form 10A100. The application is available at Kentucky Taxpayer Service Centers (see page 16) or from the Taxpayer Registration Section, Department of Revenue, Frankfort, KY 40620 or at [www.revenue.ky.gov](http://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 Partnership Income and LLET Return, Form 765, must be filed by every 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), KRS 141.040, KRS 141.0401 and KRS 141.206**

**Disregarded Entities**—A limited liability company (LLC) is treated for Kentucky income tax purposes in the same manner as it is treated for federal income tax purposes. Therefore, a single member LLC that is disregarded for federal income tax purposes shall be included in the return filed by its single member (owner). **KRS 141.010(25) and 103 KAR 16:300**

**Pass-through Entities**—A pass-through entity doing business in Kentucky solely as a partner in a pass-through entity will file Form 765 pursuant to the provisions of KRS 141.010, 141.120 and 141.206. (See Schedule A—Apportionment and Allocation Instructions and Schedule A-C—Apportionment and Allocation-Continuation Sheet).

## **Nonresident Withholding (Form 740NP-WH)**

### **Withholding**

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

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

Withholding shall not be required if: (a) the partner, member or shareholder is exempt from withholding as provided by KRS 141.206(7)(a); (b) the partner or member is exempt from Kentucky income tax as provided by KRS 141.040(1); (c) the pass-through entity is a qualified investment partnership as provided by KRS 141.206(15), and the partner, member or shareholder is an individual; or (d) the partner or member is a pass-through entity.

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

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

A pass-through entity shall complete Form 740NP-WH and Form PTE-WH for each nonresident individual, estate or trust partner, member or shareholder and each corporate partner or member and mail Form 740NP-WH and Copy A of Form PTE-WH to the Kentucky Department of Revenue with payment of any tax due 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 nonresident individual (includes an estate or trust partner, member or shareholder) partners, members or shareholders: (i) whose distributive share income was not subject to withholding as provided by KRS 141.206(5); (ii) whose only source of income within this state is distributive share income from one or more pass-through entities; and (iii) that elect to be included in a composite return as provided by KRS 141.206(16).**

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

The composite return of a pass-through entity shall be filed with the Department of Revenue on Form 740NP-WH,

Kentucky Nonresident Income Tax Withholding on Distributive Share Income Report and Composite Income Tax Return. The composite return box on the front of the Form 740NP-WH form must be checked to indicate that this is a composite return, and a Form PTE-WH must be completed for each of the electing nonresident individual partners, members or shareholders. The composite return box on each Form PTE-WH must be checked to indicate that it is part of a composite return. The tax due for the electing partners, members or shareholders shall be remitted with the composite return.

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

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

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

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

1. Kentucky Partnership Income and LLET Return (Form 765)
2. Kentucky Partner's Share of Income, Credits, Deductions, Etc.—Schedule K-1 (Form 765)
3. Apportionment and Allocation (Schedule A)
4. Apportionment and Allocation—Continuation Sheet (Schedule A-C)
5. Limited Liability Entity Tax (Schedule LLET)
6. Limited Liability Entity Tax—Continuation Sheet (Schedule LLET-C)
7. Application for Filing Extension (Form 41A720SL)
8. Tax Credit Summary Schedule (Schedule TCS)
9. Other Additions And Subtractions To/From Federal Ordinary Income (Schedule O-PTE)

#### **Required Federal Forms and Schedules**

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

1. Form 1065, all pages.
2. Form 1125-A—Cost of Goods Sold
3. Form 4797—Sales of Business Property
4. Schedule D—Capital Gains and Losses
5. Form 5884—Work Opportunity Credit
6. Schedules for items on Form 1065, Schedule L, which state, "attach schedule."
7. Form 4562—Depreciation and Amortization
8. Form 8825—Rental Real Estate Income and Expenses of a Partnership or an S Corporation

#### **Electronic Funds Transfer (EFT)**

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

**Accounting Procedures**—Kentucky income tax law requires a 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**

**Filing/Payment Date**—A partnership 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. **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)**

**Mailing/Payment**—Mail the return with the partnership's LLET payment to Kentucky Department of Revenue, Frankfort, KY 40620. Make the check payable to Kentucky State Treasurer.

**Extensions**—An extension of time to file a partnership income and LLET return may be obtained by either making a specific request to the Department of Revenue or attaching a copy of the federal extension to the return when filed. **A copy of the federal extension submitted after the return is filed does not constitute a valid extension, and late filing penalties will be assessed.**

If the partnership is making a payment with its extension, Kentucky Form 41A720SL must be used. For further information, see the instructions for Form 41A720SL. **103 KAR 15:050**

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

#### **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 partnership 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 website at [www.revenue.ky.gov](http://www.revenue.ky.gov).

**NOTE:** See [www.revenue.ky.gov](http://www.revenue.ky.gov) for information on the 2013 estimated tax payments.

**Estimated Tax Payments**—A partnership 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 partnership 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 partnership'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 141.042(4) and KRS 141.985**

#### **Other Information**

**Amended Return**—To correct Form 765 as originally filed, file an amended Form 765 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) must also be filed with the amended Form 765 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.

**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 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 for reporting federal audit adjustments and check the Amended Return box.

**Interest**—Interest at the tax interest rate is applied to 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 2013 is available online at [www.revenue.ky.gov](http://www.revenue.ky.gov), or you may contact the Department of Revenue at (502) 564-8139 to obtain it.

#### **Penalties**

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

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

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

**Cost of Collection Fees**

- (a) 25 percent on all taxes which become due and owing for any reporting period, regardless of when due. These collection fees are in addition to all other penalties provided by law. **KRS 131.440(1)(b)**
- (b) 25 percent on all taxes assessed and collected by the Department of Revenue for taxable periods ending before October 1, 2011. **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)(b)**

**FORM 765—SPECIFIC INSTRUCTIONS**

**Period Covered**

File the 2012 return for calendar year 2012 and fiscal years that begin in 2012. For a fiscal year, fill in the taxable period beginning and ending at the top of Form 765.

**All partnerships must enter Taxable Year Ending at the top right of Form 765** and supporting forms and schedules to indicate the ending month and year for which the return is filed.

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

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

- A fiscal year is 12 consecutive months ending on the last day of any month except December. A fiscal year ending January 31, 2013, would be entered as:

$$\frac{01}{\text{Mo.}} / \frac{13}{\text{Yr.}}$$

- A 52/53-week year is a fiscal year that varies between 52 and 53 weeks. Example: A 52/53-week year ending the first week of January 2013, would be entered as:

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

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

**Item A**—Enter the six-digit Kentucky Corporation/LLET Account Number on the applicable line at the top of each form and schedule and on all checks and correspondence. This number was included in correspondence received from the Department of Revenue at the time of registration.

**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 partnership is not required to file an LLET return, enter one of the following two-digit codes in the space provided. **Failure to include a valid code will delay the processing of the tax return and may result in a tax notice for assessment of taxes and penalties.**

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.
20	A publicly traded partnership as defined in Section 7704(b) of the Internal Revenue Code that is treated as a partnership for federal tax purposes under Section 7704(c) of the Internal Revenue Code, or its publicly traded partnership affiliates. "Publicly traded partnership affiliates" shall include any limited liability company or limited partnership for which at least eighty percent (80%) of the limited liability company member interests or limited partner interests are owned directly or indirectly by the publicly traded partnership.
21	A qualified investment pass-through entity as defined in KRS 141.206(15).

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

If the partnership is not required to file a Kentucky partnership income return, enter the following two-digit code in the space provided. **Failure to include a valid code will delay the processing of the tax return and may result in a tax notice for assessment of taxes and penalties.**

REASON CODE	REASON
22	This return contains only the LLET as the partnership is exempt from filing a Kentucky income return as provided by Public Law 86-272.

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

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

**Telephone Number**—Enter the business telephone number of the partner or member signing the return.

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

**Principal Business Activity in Kentucky**—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](http://www.census.gov).

**Item E**—Check the applicable boxes:

- (a) *LLC*—Check this box if the partnership is organized as a limited liability company (LLC).
- (b) *LP*—Check this box if the partnership is organized as a limited partnership (LP).
- (c) *LLP*—Check this box if the partnership is organized as a limited liability partnership (LLP).
- (d) *Qualified Investment Pass-through Entity*—Check this box if the partnership is a qualified investment pass-through entity as provided by KRS 141.206(15)(a).
- (e) *Amended Return*—Check this box if this is an amended return. Attach statement giving explanation of changes to income, apportionment factor, and/or taxes.
- (f) *Initial Return*—Check this box if this is the partnership’s first time filing a partnership return in Kentucky. Complete questions 1, 2 and 3 on Schedule Q—Kentucky Partnership Questionnaire.
- (g) *Final Return*—Check this box if this is the partnership’s final return. If the partnership has dissolved or withdrawn, attach an explanation.
- (h) *Change of Address*—Check this box if the partnership has changed its address.
- (i) *Short-period Return*—Check this box and submit an explanation for the short-period return that is not an initial return.
- (j) *Change of Name*—Check this box if the partnership has changed its name.
- (k) *Change of Accounting Period*—Check this box if the partnership has changed its accounting period. Attach a statement to the tax return showing the partnership’s taxable year end before the change and its new taxable year end. If the partnership received written approval from the Internal Revenue Service to change its taxable year, attach a copy of the letter.

**Item F**—Enter the number of partners (Attach K-1s).

#### **PART I—ORDINARY INCOME (LOSS) COMPUTATION**

**Line 1**—Enter the amount from federal Form 1065, Line 22, ordinary business income (loss) from trade or business activities. **Attach Form 1065, all pages.**

**Additions to Federal Ordinary Income**—Lines 2 through 5 itemize additional income or unallowed deductions which are differences between federal ordinary income and Kentucky ordinary income.

**Line 2**—Enter state taxes measured in whole or in part by gross or net income. “State” means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States or any foreign country or political subdivision thereof. Attach a schedule reflecting the total taxes deducted on Form 1065. **KRS 141.010(11)(d)**

**Line 3**—See instructions on page 3 regarding depreciation and Section 179 deduction differences, and if applicable, include the depreciation amount from Line 16a of Form 1065 (do not include the Section 179 deduction). **If federal Form 4562 is required to be filed for federal income tax purposes, a copy must be attached.**

**Line 4**—Enter related party cost additions from Schedule RPC, Part II, Section B, Line 1.

**Line 5**—Enter the amount from Schedule O—PTE, Part I, Line 6.

**Line 6**—Enter the total of Lines 1 through 5.

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

**Line 7**—Enter the amount of the work opportunity credit reflected on federal Form 5884. For Kentucky purposes, the 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 3 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 10.

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

#### **PART II—LLET COMPUTATION**

**Line 1**—Enter the amount from Schedule LLET, Section D, Line 1. A partnership must use Schedule LLET(K), Limited Liability Entity Tax (For a Limited Liability Pass-through Entity 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 Economic Opportunity Zone Act (KEOZ), Kentucky Jobs Retention Agreement (KJRA), Kentucky Industrial Revitalization Act (KIRA), Kentucky Jobs Development Act (KJDA), Kentucky Business Investment Program (KBI), Kentucky Reinvestment Act (KRA) and Incentives for Energy Independence Act (IEIA).

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

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

**Line 4**—Enter the nonrefundable LLET credit from Kentucky Schedule(s) K-1. **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 2012 from Form 765, Part II, Line 14 of the 2011 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 2013 LLET.

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

## **SCHEDULE K (FORM 765)**

**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 partnership in completing Schedule K, Form 765.

A partnership must use Form 765(K), Kentucky Schedule K For 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 Economic Opportunity Zone Act (KEOZ), Kentucky Jobs Retention Agreement (KJRA), Kentucky Industrial Revitalization Act (KIRA), Kentucky Jobs Development Act (KJDA), Kentucky Business Investment Program (KBI), Kentucky Reinvestment Act (KRA) and Incentives for Energy Independence Act (IEIA).

### **Section I—Income (Loss) and Deductions**

**Line 1**—Enter Kentucky ordinary income (loss) from trade or business activities reported on Form 765, Part I, Line 10.

**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 page 3 of the 2012 Form 765 instructions regarding **differences in gain or loss from disposition of assets**, and if applicable, enter the amount from Line 7 of the Kentucky Schedule D that is portfolio income. Report any gain or loss that is not portfolio income on Line 7, Schedule K, Form 765. **Kentucky Schedule D must be attached to Form 765.** Otherwise, enter the amount from Line 7 of the federal Schedule D (Form 1065) that is portfolio income.

**Line 4(e)**—See page 3 of the 2012 Form 765 instructions regarding **differences in gain or loss from disposition of assets**, and if applicable, enter the amount from Line 15 of the Kentucky Schedule D that is portfolio income. Report any

gain or loss that is not portfolio income on Line 7, Schedule K, Form 765. **Kentucky Schedule D must be attached to Form 765.** Otherwise, enter the amount from Line 15 of the federal Schedule D (Form 1065) that is portfolio income.

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

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

**Line 6**—See page 3 of the 2012 Form 765 instructions regarding **differences in gain or loss from disposition of assets**. If applicable, enter the amount from Line 7 of the Kentucky Form 4797, and **Kentucky Form 4797 must be attached to Form 765.** 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 partnership not included on Lines 1 through 6. See federal instructions for Schedule K, Form 1065.

**Line 8**—Enter total contributions paid by the 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 page 3 of the 2012 Form 765 instructions regarding **depreciation and Section 179 deduction differences**, and if applicable, include the amount from Line 12 of the Kentucky Form 4562. **Kentucky Form 4562 must be attached.** Otherwise, enter Section 179 deduction from federal Form 4562.

**Line 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 partnership not included on Lines 8, 9 and 10. See federal instructions for Schedule K, Form 1065.

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

**Line 13**—Enter the Kentucky Small Business Investment Credit Program (KSBIC) tax credit as provided by KRS 141.384 and attach a copy of the Kentucky Economic Development Finance Authority notification.

**Line 14**—Enter the Skills Training Investment Credit Act (STICA) tax credit as provided by KRS 141.405 and attach the Bluegrass State Skills Corporation certification(s).

**Line 15**—Enter the Certified Rehabilitation Tax Credit as provided by KRS 171.397 and attach the Kentucky Heritage Council certification(s).

**Line 16**—Enter the Kentucky Unemployment Tax Credit as provided by KRS 141.065 and attach Kentucky Schedule UTC (Form 42A740-UTC).

**Line 17**—Enter the Recycling/Composting Equipment Tax Credit as provided by KRS 141.390 and attach Kentucky Schedule RC (Form 41A720RC).

**Line 18**—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 19**—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 20**—Enter the Qualified Research Facility Tax Credit as provided by KRS 141.395 and attach Kentucky Schedule QR (Form 41A720QR).

**Line 21**—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 22**—Enter the Voluntary Environmental Remediation Tax Credit as provided by KRS 141.418 and attach Kentucky Schedule VERB (Form 41A720VERB).

**Line 23**—Enter the Biodiesel Tax Credit as provided by KRS 141.424 and attach Kentucky Schedule BIO (41A720BIO).

**Line 24**—Enter the Environmental Stewardship Tax Credit as provided by KRS 141.430 and attach Kentucky Schedule KESA (41A720KESA).

**Line 25**—Enter the Clean Coal Incentive Tax Credit as provided by KRS 141.428 and attach Kentucky Schedule CCI (41A720-CCI)

**Line 26**—Enter the Ethanol Tax Credit as provided by KRS 141.424 and attach Kentucky Schedule ETH (Form 41A720ETH).

**Line 27**—Enter the Cellulosic Ethanol Tax Credit as provided by KRS 141.4244 and attach Kentucky Schedule CELL (Form 41A720CELL).

**Line 28**—Enter the Energy Efficiency Products Tax Credit from Form 5695-K, Line 6 and attach Form 5695-K.

**Line 29**—Enter the Energy Efficiency Products Tax Credit from Form 5695-K, Line 12 and attach Form 5695-K.

**Line 30**—Enter the Energy Efficiency Products Tax Credit from Form 5695-K, Line 18 and attach Form 5695-K.

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

**Line 32**—Enter the Energy Efficiency Products Tax Credit from Form 5695-K, Line 36 and attach Form 5695-K.

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

**Line 34**—Enter the Energy Efficiency Products Tax Credit from Form 5695-K, Line 51 and attach Form 5695-K.

**Line 35**—Enter the Energy Efficiency Products Tax Credit from Form 5695-K, Line 57 and attach Form 5695-K.

**Line 36**—Enter the Energy Efficiency Products Tax Credit from Form 5695-K, Line 63 and attach Form 5695-K.

**Line 37**—Enter the ENERGY STAR Home or ENERGY STAR Manufactured Home Tax Credit as provided by KRS 141.437 and attach Kentucky Form 8908-K (Form 41A720-S11).

**Line 38**—Enter the Railroad Maintenance and Improvement Tax Credit as provided by KRS 141.385 and attach Kentucky Schedule RR-I (Form 41A720RR-I).

**Line 39**—Enter the Railroad Expansion Tax Credit as provided by KRS 141.386 and attach Kentucky Schedule RR-E (Form 41A720RR-E).

**Line 40**—Enter the ENDOW Kentucky Tax Credit as provided by KRS 141.438 and attach a copy of Kentucky Schedule ENDOW (Form 41A720-S86).

**Line 41**—Enter the New Markets Program Tax Credit as provided by KRS 141.434 and attach Kentucky Form 8874(K)-A (Form 41A720-S81).

**Line 42(a)**—Enter the information provided on federal Schedule K, Form 1065, Line 13c(1).

**Line 42(b)**—Enter the amount reported on federal Schedule K, Form 1065, Line 13c(2).

**Line 43**—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 44**—Enter the total amount of any other type of income of the partnership on which the partner is exempt from Kentucky income tax.

**Line 45**—Enter the total amount of nondeductible expenses paid or incurred by the 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, capital expenditures or items the deductions for which are deferred to a later year.

**Line 46**—Enter the amount reported on federal Schedule K, Form 1065, Line 19a and 19b.

**Line 47**—Attach schedules to report the partnership's total income, expenses and other information applicable to items not included on Lines 1 through 45 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 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.

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

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

If the partner or member is a corporation or pass-through entity, and the partnership filing Form 765 or Form 765-GP was eligible and chose to figure Qualified Production Activities Income

(QPAI) at the entity level, attach the following (i) QPAI, adjusted to reflect differences in Kentucky and federal income tax laws; and (ii) Kentucky W-2 wages allocable to DPGR.

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

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

## Section II—LLET 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 partnership’s Kentucky sales from Schedule A, Section I, Line 1.

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

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

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

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

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


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

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

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

## Tax Payment Summary

The payment due with Form 765 must be itemized. Enter the LLET payment due from page 1, Part II, Line 12 on the applicable tax payment line in addition to the respective amount of penalty and interest. Enter the total payment due on the Total Payment line.

 **Signature**—Form 765 must be signed by a partner or member. **Failure by a partner or 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.**

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

### General Instructions

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

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

**Photocopies of Schedule K-1 (Form 765)** 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 partner. The distributive share items reported on all Schedules K-1, Column (b), Lines 1 through 47 must equal the amounts reported on Schedule K, Lines 1 through 47. The distributive share items reported on all Schedules K-1, Column (b), Lines 48 through 56 must equal the amounts reported on comparable lines of Schedule K, Section II, Lines 1 through 9. Schedule K-1, Column (b), Lines 57 through 59 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), the partnership must provide information for each activity to its 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) for each activity.

**At-Risk Activities**—If the partnership is involved in one or more at-risk activities for which a loss is reported on Schedule K-1 (Form 765), the 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) for each at-risk activity.

**Lines 1 through 56**—Enter the partner’s total pro rata share of each item listed on Schedule K, Form 765. **Do not multiply these amounts by the percentage entered on Item D(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).

Enter on attached schedules the supplemental information required to be reported separately to each partner for Lines 1 through 56 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 57 through 59**—The amounts in Column (b) are to be entered by the partner, not the partnership.

## Tax Credit Summary Schedule—Schedule TCS

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

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

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

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

To claim the STICA or MCC credit, a copy of the tax credit certification(s) received from Bluegrass State Skills Corporation reflecting the amount of credit awarded shall be attached to the tax return. The credit for either the STICA or MCC shall be claimed on the tax return filed for the taxable year during which the final authorizing resolution is adopted by Bluegrass State Skills Corporation. The STICA credit not used during the year in which the final authorizing resolution is adopted by Bluegrass State Skills Corporation may be carried forward three successive years; the MCC credit not used during the year in which the final authorizing resolution is adopted by Bluegrass State Skills Corporation may be carried forward to tax years ending before April 15, 2017. If a STICA or MCC credit is being carried forward from a prior year, attach a schedule reflecting the original credit available, the amount of the credit used each year and the balance of the credit.

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

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

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

**Certified Rehabilitation Tax Credit**—This credit is allowed only if the taxpayer has been approved for the credit by the Kentucky Heritage Council. Credit is allowed against the taxes imposed by KRS 141.020, KRS 141.040, KRS 141.0401 and KRS 136.505 for qualified rehabilitation expenses on certified historic structures. Information regarding this credit is available at [www.heritage.ky.gov](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 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 ( $\$400,000 \times 10\% \times 50\%$ ).*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Each corporation or railway company eligible for the credit provided under this section shall file a railroad expansion tax credit claim on forms prescribed by the department by

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

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

**New Markets Development Program Tax Credit** – KRS 141.432 to 141.434 was created to encourage taxpayer investment in qualified low-income communities. A taxpayer that makes a qualified equity investment as provided by KRS 141.432(7) in a qualified community development entity as provided by KRS 141.432(6) shall be entitled to a nonrefundable tax credit against the taxes imposed by KRS 141.020, 141.040, 141.0401, 136.320, 136.330, 136.340, 136.350, 137.370, 136.390 or 304.3-270. The total amount of tax credits that may be awarded by the department shall be limited to \$5 million. "Qualified low-income community investment" means any capital or equity investment in, or loan to, any qualified active low-income community business made after June 4, 2010. With respect to any one qualified active low-income community business, the maximum amount of qualified active low-income community investments that may be made in the business, on a collective basis with all of its affiliates, with the proceeds of qualified equity investments that have been certified under KRS 141.433 shall be \$10 million, whether made by one or several qualified community development entities.

The amount of the credit shall be equal to 39% of the purchase price of the qualified equity investment made by the taxpayer. A taxpayer is allowed to claim zero percent (0%) for each of the first two credit allowance dates, seven percent (7%) for the third allowance date, and eight percent (8%) for the next four allowance dates. "Credit allowance date" means with respect to any qualified equity investment: (a) the date on which the investment is initially made; and (b) each of the six anniversary dates of that date thereafter. **KRS 141.434**

## TAXPAYER ASSISTANCE

### Forms:

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



Website: [www.revenue.ky.gov](http://www.revenue.ky.gov)  
Email: [Financerevenueformsandenvelopes@ky.gov](mailto:Financerevenueformsandenvelopes@ky.gov)

### Information:

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



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

## KENTUCKY TAXPAYER SERVICE CENTERS

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

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

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

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

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

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

**Louisville**, 600 West Cedar Street  
2<sup>nd</sup> 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, age, religion, disability, sexual orientation, gender identity, veteran status, genetic information or ancestry 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.

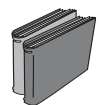
### Interest


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 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](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.

*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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