

**CORPORATION AND PASS-THROUGH ENTITY
 RELATED PARTY EXPENSE QUESTIONNAIRE**

Taxable Year Ending

___/___/___
 Mo. Yr.



KRS 141.205 and 103 KAR 16:230

| | | |
|----------------|--|--|
| Name of Entity | Federal Identification Number _____ | Kentucky Corporation/LLET Account Number (if applicable) _____ |
|----------------|--|--|

The information included in this questionnaire will be used by the Department of Revenue in determining whether intangible expense, intangible interest expense or management fees have been properly deducted from or added back to federal taxable (ordinary) income in your Kentucky tax return for the above taxable year.

PART I – REQUIRED ADD BACK

All intangible expenses, intangible interest expenses and management fees that are paid, accrued or incurred to a related member must be added back to income unless one or more of the statutory exceptions are met.

Section A – Intangible Expenses

| | | | |
|---|---|--|----|
| 1. Total intangible expenses paid to a related member: Do not include any interest expense or costs related to intangible interest expense | 1 | | 00 |
|---|---|--|----|

Section B – Intangible Interest Expenses

| | | | |
|---|---|--|----|
| 1. Total intangible interest expenses paid to a related member | 1 | | 00 |
|---|---|--|----|

Section C – Management Fees

| | | | |
|--|---|--|----|
| 1. Total management fees paid to a related member | 1 | | 00 |
|--|---|--|----|

Section D – Total Required Add Back

| | | | |
|---|---|--|----|
| 1. Add Section A, line 1, Section B, line 1 and Section C, line 1. Enter here | 1 | | 00 |
|---|---|--|----|

PART II – EXCEPTIONS TO ADD BACK

Section A – Exceptions to Expenses

| | | | |
|---|---|--|----|
| 1. Enter amount from Part III, Section A, line 6 | 1 | | 00 |
| 2. Enter amount from Part III, Section B, line 5 | 2 | | 00 |
| 3. Enter amount from Part III, Section C, line 5 | 3 | | 00 |
| 4. Enter amount from Part III, Section D, line 1 | 4 | | 00 |
| 5. Enter amount from Part III, Section E, line 1 | 5 | | 00 |
| 6. Total Exceptions: Add lines 1 through 5 and enter here | 6 | | 00 |

Section B – Total Related Party Cost Add Back After Exceptions

| | | | |
|---|---|--|----|
| 1. Total: Part I, Section D, line 1 less Part II, Section A, line 6 | 1 | | 00 |
|---|---|--|----|

PART III – DETAIL OF EXCEPTIONS TO ADD BACK

Section A – Exception for intangible expenses, intangible interest expenses and management fees paid to related members that are included in the same consolidated Kentucky corporation income tax return for this taxable year.

| | Name of Related Member | Federal Identification Number | Kentucky Corp./LLET Account Number | Amount Deducted |
|----|---|-------------------------------|------------------------------------|-----------------|
| 1. | | | | 00 |
| 2. | | | | 00 |
| 3. | | | | 00 |
| 4. | | | | 00 |
| 5. | | | | 00 |
| 6. | Total of lines 1 through 5. Enter here and on PART II, Section A, line 1 | | | 00 |

Section B – Exception for intangible expenses, intangible interest expenses and management fees paid to related members who are subject to tax in their state of domicile.

| | | |
|----|--|--|
| A. | Were any intangible expenses, intangible interest expenses or management fees paid, accrued or incurred to a recipient where the expense or payment was subject to, in the related member's state of commercial domicile, a net income tax, or a franchise tax measured by, in whole or in part, net income? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| B. | Is the recipient engaged in substantial business activities separate and apart from the acquisition, use, licensing, management, ownership, sale, exchange, or any other disposition of intangible property, or in the financing of related members, as evidenced by the maintenance of permanent office space and full-time employees dedicated to the maintenance and protection of intangible property? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| C. | Is the transaction giving rise to the intangible expenses, intangible interest expenses or management fees between the taxpayer and the recipient made at a commercially reasonable rate and at terms comparable to an arm's length transaction? | <input type="checkbox"/> Yes <input type="checkbox"/> No |

If the answers to Questions A, B and C above are all "Yes," attach a copy of recipient's tax return filed in its state of commercial domicile (**proprietary information may be redacted**), and a copy of pertinent parts of the contract or other documentation that support this exception. **Failure to provide the tax return and pertinent parts of the contract or other documentation that support this exception will result in a denial of the exception.** If any of the answers are "No," the taxpayer does not qualify for the exception. Also, to qualify for this exception, all parts of the following schedule must be completed.

| | Name of Related Member | Federal Identification Number | State of Commercial Domicile | Name of Tax | Amount Deducted |
|----|---|-------------------------------|------------------------------|-------------|-----------------|
| 1. | | | | | 00 |
| 2. | | | | | 00 |
| 3. | | | | | 00 |
| 4. | | | | | 00 |
| 5. | Total of lines 1 through 4. Enter here and on PART II, Section A, line 2 | | | | 00 |

Section C – Exception for intangible expenses, intangible interest expenses and management fees paid to related members located in a country or countries with which the United States has a comprehensive income tax treaty(ies).

| | | |
|----|--|--|
| A. | Were any intangible expenses, intangible interest expenses or management fees paid, accrued or incurred to a related member in a foreign nation which has in force a comprehensive income tax treaty with the United States? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| B. | Is the recipient engaged in substantial business activities separate and apart from the acquisition, use, licensing, management, ownership, sale, exchange, or any other disposition of intangible property, or in the financing of related members, as evidenced by the maintenance of permanent office space and full-time employees dedicated to the maintenance and protection of intangible property? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| C. | Is the transaction giving rise to the intangible expenses, intangible interest expenses or management fees between the taxpayer and the recipient made at a commercially reasonable rate and at terms comparable to an arm’s length transaction? | <input type="checkbox"/> Yes <input type="checkbox"/> No |

If the answers to Questions A, B and C above are all “Yes,” attach a copy of recipient’s tax return (**proprietary information may be redacted**), and a copy of pertinent parts of the contract or other documentation that support this exception. **Failure to provide the tax return and pertinent parts of the contract or other documentation that support this exception will result in a denial of the exception.** If any of the answers are “No,” the taxpayer does not qualify for the exception. Also, to qualify for this exception, all parts of the following schedule must be completed.

| | Name of Related Member | Name of Foreign Nation | Description of Treaty | Amount Deducted |
|----|---|------------------------|-----------------------|-----------------|
| 1. | | | | 00 |
| 2. | | | | 00 |
| 3. | | | | 00 |
| 4. | | | | 00 |
| 5. | Total of lines 1 through 4. Enter here and on PART II, Section A, line 3 | | | 00 |

Section D – Exception for intangible expenses, intangible interest expenses and management fees where the recipient regularly engages in transactions with one (1) or more unrelated parties on terms identical to that of the subject transaction.

| | | |
|----|--|--|
| A. | Has the recipient regularly engaged in transactions with one (1) or more unrelated parties on terms identical to that of the subject transaction (giving rise to the intangible expense, intangible interest expense or management fee)? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|----|--|--|

If the answer to Question A is “Yes,” complete line 1 below and attach copies of the written agreements between the taxpayer and the recipient and the recipient and the unrelated party. **Failure to attach the written agreements will result in a denial of the exception.** If the answer is “No,” the taxpayer does not qualify for this exception.

| | | |
|----|---|----|
| 1. | Exception amount. Enter here and on PART II, Section A, line 4 | 00 |
|----|---|----|

Section E – Exception for intangible expenses, intangible interest expenses and management fees where the taxpayer and department have agreed in writing to the application or use of an alternative method of apportionment under KRS 141.120(9).

| | | |
|----|---|--|
| A. | Is there a written agreement between the taxpayer and the Department which provides for use of an alternative method of apportionment under KRS 141.120(9)? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|----|---|--|

If the answer to Question A is “Yes,” complete line 1 below and attach a copy of the written agreement. **Failure to attach the written agreement will result in a denial of the exception.** If the answer is “No,” the taxpayer is not eligible for this exception.

| | | |
|----|---|----|
| 1. | Exception amount. Enter here and on PART II, Section A, line 5 | 00 |
|----|---|----|

INSTRUCTIONS FOR RELATED PARTY COSTS

KRS 141.205(1)(l) states that “**related party costs**” means intangible expense, intangible interest expense, management fees and any costs or expenses associated with other related party transactions.

KRS 141.205(1)(h) states that “**recipient**” means a related member or foreign corporation to whom the item of income that corresponds to the intangible interest expense, the intangible expense, or the management fees, is paid.

KRS 141.205(1)(b) states that “**intangible expenses**” includes the following only to the extent that the amounts are allowed as deductions or costs in determining taxable net income before the application of any net operating loss deduction provided under Chapter 1 of the Internal Revenue Code: (i) Expenses, losses, and costs for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property; (ii) Losses, related to, or incurred in connection directly or indirectly with, factoring transactions or discounting transactions; (iii) Royalty, patent, technical, and copyright fees; (iv) Licensing fees; and (v) Other similar expenses and costs.

KRS 141.205(1)(c) states that “**intangible interest expense**” means only those amounts which are directly or indirectly allowed as deduction under Section 163 of the Internal Revenue Code for purposes of determining taxable income under that code, to the extent that the amounts are directly or indirectly for, related to, or connected to the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property.

KRS 141.205(1)(d) states that “**management fees**” includes but is not limited to expenses and costs paid for services pertaining to accounts receivable and payable, employee benefit plans, insurance, legal, payroll, data processing, purchasing, tax, financial and securities, accounting, reporting and compliance services or similar services, only to the extent that the amounts are allowed as a deduction or cost in determining taxable net income before the application of net operating loss deduction for the taxable year provided under Chapter 1 of the Internal Revenue Code.

PART I—REQUIRED ADD BACK

Section A—Intangible Expenses

Line 1—Enter the total of all intangible expenses paid to a related member. Do not include any interest expense or costs related to intangible interest expense.

Section B—Intangible Interest Expenses

Line 1—Enter the total of all intangible interest expenses paid to a related member.

Section C—Management Fees

Line 1—Enter the total of all management fees paid to a related member.

Section D—Total Required Add Back

Line 1—Enter the total of Section A, Line 1, Section B, Line 1 and Section C, Line 1.

PART II—EXCEPTIONS TO ADD BACK

Section A—Exceptions to Expenses

Line 1—Enter the amount from Part III, Section A, Line 6.

Line 2—Enter the amount from Part III, Section B, Line 5.

Line 3—Enter the amount from Part III, Section C, Line 5.

Line 4—Enter the amount from Part III, Section D, Line 1.

Line 5—Enter the amount from Part III, Section E, Line 1.

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

Section B—Total Related Party Cost Add Back After Exceptions

Line 1—Enter the amount from Part I, Section D, Line 1 less the amount on Part II, Section A, Line 6.

PART III—DETAIL OF EXCEPTIONS TO ADD BACK

Section A—Exception for intangible expenses, intangible interest expenses and management fees paid to related members that are included in the same consolidated Kentucky corporation income tax return for this taxable year.

Lines 1 to 5—For each related member include the name, Federal Identification Number, Kentucky Corporation/LLET Account Number and the amount deducted by the taxpayer. If there are more than five related members, attach a statement with the information for each member and enter the total on Line 1.

Line 6—Enter the total of Lines 1 through 5. Also enter the total on Part II, Section A, Line 1.

Section B—Exception for intangible expenses, intangible interest expenses and management fees paid to related members who are subject to tax in their state of domicile.

Questions A to C—Answer the questions A through C. If the answers are all Yes, complete Lines 1 through 5 and attach a copy of recipient’s tax return filed in its state of commercial domicile (**proprietary information may be redacted**), and a copy of pertinent parts of the contract or other documentation that support this exception.

Lines 1 to 4—For each related member include the name, Federal Identification Number, state of commercial domicile, name of tax and the amount deducted by the taxpayer. If there

are more than four related members, attach a statement with the information for each member and enter the total on Line 1.

Line 5—Enter the total of Lines 1 through 4. Also enter the total on Part II, Section A, Line 2.

Section C—Exception for intangible expenses, intangible interest expenses and management fees paid to related members located in a country or countries with which the United States has a comprehensive income tax treaty(ies).

Questions A to C—Answer questions A through C. If the answers are all Yes, complete Lines 1 through 5 and attach a copy of recipient’s tax return (**proprietary information may be redacted**), and a copy of pertinent parts of the contract or other documentation that support this exception.

Lines 1 to 4—For each related member include the name, name of foreign nation, description of treaty and the amount deducted by the taxpayer. If there are more than four related members, attach a statement with the information for each member and enter the total on Line 1.

Line 5—Enter the total of Lines 1 through 4. Also enter the total on Part II, Section A, Line 3.

Section D—Exception for intangible expenses, intangible interest expenses and management fees where the recipient regularly engages in transactions with one (1) or more unrelated parties on terms identical to that of the subject transaction.

Question A—If the answer is Yes, attach a schedule or spreadsheet that identifies the unrelated party and the amount paid to the recipient. Include the rate charged by the recipient to the unrelated party for the intangible expense, intangible interest or management fee. Complete Line 1 and include copies of the written agreements between the taxpayer and the recipient, as well as, the recipient and the unrelated party.

Line 1—Enter the total amount deducted by the taxpayer for intangible expenses, intangible interest expenses or management fees paid to related parties that are based on terms identical to that of unrelated parties. Also enter the total on Part II, Section A, Line 4.

Section E—Exception for intangible expenses, intangible interest expenses and management fees where the taxpayer and department have agreed in writing to the application or use of an alternative method of apportionment under KRS 141.120(9).

Question A—Answer question A. If the answer is Yes, complete Line 1 and attach a copy of the written agreement between the taxpayer and the department.

Line 1—Enter the total amount deducted by the taxpayer for intangible expenses, intangible interest expenses or management fees where the taxpayer and department have agreed in writing to the application or use of an alternative method of apportionment under KRS 141.120(9). Also enter the total on Part II, Section A, Line 5.

PROVIDE ANY ADDITIONAL INFORMATION WHICH MAY BE USEFUL IN DETERMINING WHETHER INTANGIBLE EXPENSES, INTANGIBLE INTEREST EXPENSES OR MANAGEMENT FEES HAVE BEEN PROPERLY DEDUCTED FROM OR ADDED BACK TO FEDERAL TAXABLE (ORDINARY) INCOME IN YOUR KENTUCKY TAX RETURN FOR THE TAXABLE YEAR REFLECTED ON PAGE 1.

Person completing questionnaire: _____

Title: _____

Telephone: _____

Email address: _____

Date: _____

Please return this completed questionnaire to:

**ATTN: Division of Corporation Tax
Kentucky Department of Revenue
P.O. Box 181, Station 52
Frankfort, Kentucky 40602-0181
Telephone: 502-564-8139
Fax: 502-564-0058**