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**Kentucky Technical Advice Memorandum**  
**KY-TAM-18-03**

**SUBJECT:** Credit for Income Tax Paid to Another State

**EFFECTIVE DATE:** Applies to all periods open under the statute.

**SUPERSEDES:** N/A

**REFERENCE:** [KRS 141.070](#)  
[KRS 141.010\(18\)](#), (20), and (24)  
[KRS 141.019](#)  
[103 KAR 17:140](#)

**AUTHORITY:** [KRS Chapter 13A](#)  
[KRS 131.130\(8\)](#)

**SCOPE:** The purpose of a Technical Advice Memorandum ("TAM") is to provide direction to the public and to Department personnel. It is issued to apply principles of law to a set of facts or general category of taxpayers. The Kentucky Department of Revenue ("KDOR"), in its discretion, may retroactively withdraw, revoke, or modify any TAM including, but not limited to, if there was a change in the applicable statute(s), regulation(s), case law or other KDOR guidance; or if the TAM was issued in error. A TAM does not constitute a final ruling, order or determination of the KDOR, and cannot be appealed.

**I. Issue/Question(s)**

When is a taxpayer eligible to claim a credit for individual income tax paid to another state? How do reciprocity agreements with Kentucky affect the credit for individual income tax paid to another state?

**II. Law**

[KRS 141.070](#)

This statute authorizes a credit for individual income taxes paid to another state. The statute lists the following requirements for claiming the credit.

- The taxpayer claiming the credit must be a Kentucky resident.
- The income must be derived from sources outside Kentucky and subject to taxation in Kentucky.
- Income tax must have been assessed and paid on this income in another state.

The credit is limited to the amount of Kentucky tax savings had the income reported to the other state been omitted, or the amount of tax paid to the other state, whichever is less.

[KRS 141.010\(18\), \(20\), and \(24\)](#)

This statute defines the terms “nonresident,” “part-year resident,” and “resident.”

[KRS 141.010\(26\)](#)

This statute defines “state” to mean a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States. Foreign countries are not considered “states” under Kentucky law.

[103 KAR 17:140](#)

This regulation lists the states that have executed reciprocal agreements with Kentucky and describes the type of income exempt from taxation in Kentucky by each state. The reciprocal agreements are not the same, and different reciprocal agreements exempt different types of income. The states currently covered by reciprocal agreements are: Illinois, Indiana, Michigan, Ohio, Virginia, West Virginia, and Wisconsin. Benefits under the reciprocal agreements are limited to nonresidents of Kentucky.

### **III. Conclusion**

Kentucky residents are taxed on all sources of income even if earned and taxed in another state. However, a credit is available in KRS 141.070(1) for individual income tax paid to another state. The credit is only available if the income tax is actually assessed and paid to the other state. Also, the income must be derived from sources outside Kentucky and must be subject to taxation in Kentucky. The credit is limited to the amount of Kentucky tax savings had the income reported to the other state been omitted, or the amount of tax paid to the other state, whichever is less.

For part-year residents, the same rules and concepts apply. If income is sourced and taxed outside of Kentucky, the credit for individual income tax paid to another state cannot be claimed unless the same income is taxed in Kentucky.

Kentucky has reciprocal agreements with several states that eliminate individual income taxation on income covered under the reciprocal agreements. However, since the income covered by these reciprocal agreements is not taxed in Kentucky, no credit is allowed to be taken for income tax paid to another state on the exempted income.

### **V. Questions**

For questions concerning this TAM, contact Policy at [DORtaxpolicy@ky.gov](mailto:DORtaxpolicy@ky.gov).

KENTUCKY DEPARTMENT OF REVENUE

  
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Daniel P. Bork, Commissioner

DATE: August 31, 2018  
Frankfort, Kentucky