

# KENTUCKY PASS-THROUGH ENTITY INCOME AND LLET RETURN

2020

## PURPOSE OF THE INSTRUCTIONS

These instructions have been designed for pass-through entities: S-corporations, partnerships, and general partnerships, which are required by law to file a Kentucky income tax and LLET return. Form PTE is complementary to the federal forms 1120S and 1065.

## KENTUCKY TAX LAW CHANGES

### Enacted by the 2020 Regular Session of the General Assembly—

**Four-year statute of limitations extended for certain 2019 returns.** Kentucky postponed 2019 filing and payment deadlines until July 15, 2020 for income tax and LLET returns originally due between April 1 and July 1, 2020. The four-year period in which the Department can audit and make adjustments began on the later of the postponed due date of July 15, 2020, the extended due date if an extension request was timely filed, or the date the return was filed.

**Kentucky Section 179 Deduction Phase-out Threshold Eliminated—**For property placed into service on or after January 1, 2020, the Kentucky Section 179 deduction will no longer be reduced or eliminated for exceeding the threshold. Kentucky allows a deduction under §179 of the IRC of up to \$100,000 for property placed into service on or after January 1, 2020.

**Enacted new partnership audit rules—**To adapt to the new federal centralized partnership audit rules, Kentucky adopted the model statute proposed by the Multistate Tax Commission (MTC) for partnership audits. Under the new audit rules, partnerships may be subject to income tax at the entity level.

- Partnerships have 90 days to notify the Department of Revenue and the entity's direct partners of any final federal adjustments, file amended returns, and pay any additional tax due.
- Partners have 180 days to pay any additional tax due.

## HOW TO OBTAIN ADDITIONAL FORMS

Forms and instructions are available at all Kentucky Taxpayer Service Centers (see page 22). They may also be obtained by writing FORMS, Department of Revenue, 501 High Street, Station 23B, Frankfort, KY 40601, or by calling 502-564-3658. Forms can be downloaded from [www.revenue.ky.gov](http://www.revenue.ky.gov).

- In lieu of the partners paying any additional tax due, the partnership may elect to pay additional tax due at the entity level for tax owed by the partners.

### Tax Credit Changes:

**New Selling Farmer's Tax Credit—**A farmer who sells agricultural assets to a beginning farmer may be eligible for a credit against income tax and LLET. The Kentucky Selling Farmer's Tax Credit is nonrefundable and nontransferable, is limited to a maximum of \$25,000 per farmer per tax year, and is limited to \$100,000 per selling farmer per lifetime. Unused credits can be carried forward up to five years; any credit not utilized within five years is lost. The new tax credit shares the \$3 million annual cap with the Small Business Tax Credit. The Kentucky Economic Development Finance Authority began approving applications for the Selling Farmer's Tax Credit as of January 1, 2020.

**Inventory Tax Credit—**The inventory tax credit increases to 75% of the ad valorem (tangible personal property) tax timely paid in 2020.

**Kentucky Revised Statutes—**Kentucky Revised Statutes are referred to in these instructions as "KRS" and can be found online at [legislature.ky.gov/Law/Statutes/Pages/default.aspx](http://legislature.ky.gov/Law/Statutes/Pages/default.aspx).

**Kentucky Administrative Regulations—**Kentucky Administrative Regulations are referred to in these instructions as "KAR" and can be found online at [legislature.ky.gov/Law/kar/Pages/default.aspx](http://legislature.ky.gov/Law/kar/Pages/default.aspx).

## CURRENT YEAR INTEREST RATE

Pursuant to KRS 131.183, the 2021 tax interest rate has been set at three percent (3%). The rate charged by the Kentucky Department of Revenue on unpaid taxes is five percent (5%) and when interest is due on a refund, the rate is one percent (1%).

## KENTUCKY FORM CHANGES

### New:

**Form PTE**—Pass-through entities use the new Form PTE to report their ordinary income (loss) and tax liability computations. Form PTE replaces the Forms 720S (S-Corporations), 765 (Partnerships), and 765-GP (General Partnerships). “Other additions and subtractions” from the Schedule O-PTE have been incorporated into the Form PTE in the Ordinary Income (Loss) computation. The Schedule O-PTE has been eliminated.

**Schedule K-1 (Form PTE)**—Single owner’s share of pass-through items. This schedule replaces the Schedule K-1 for the discontinued Forms 720S, 765, and 765-GP.

**Form PTE(K)**—Kentucky Schedule K for pass-through entities with economic development projects. This form replaces the Forms 720S(K), 765(K), and 765-GP(K), which have been discontinued.

**Schedule DE**—Separate schedule to list all disregarded entities included in a return. This is required to be attached to a return that includes disregarded entities. Applicable to Forms 720, 720U, PTE, and 725.

**Form KBR-V**—The Kentucky Business Return Voucher replaces the 720-V and is used when a paper check for tax due is sent to the Department of Revenue for either a paper return or an e-filed return. Information on the KBR-V replaces the Tax Payment Summary previously included on the bottom of tax forms. The Form KBR-V must be used to submit paper payment due on a return for Forms 720, 720U, PTE, or 725. Do not submit this form if you made an electronic payment with your return.

### Updated:

Several main forms and schedules were redesigned with larger font sizes and more space between lines to provide for easier optical character recognition (OCR) readability and a cleaner, less busy look. Black boxes, known as “slug marks”, have been placed on

the corners of all forms and schedules to allow for improved scanning and OCR.

**Form 720**—The Form 720 was reorganized. The Taxable Income Computation was moved to Part I at the front of the form. “Other additions and subtractions” from the Schedule O-720 were incorporated into the Form 720, and the Schedule O-720 was eliminated. The number of questions on Schedule Q, Questionnaire, was significantly reduced.

**Form 720U and Schedules U1 through U10**—The front page of the Form 720U had lines added and new indicators to better show tax due or refund. Several schedules within the Package 720U were redesigned. Schedule U1, Questionnaire, was shortened significantly. Schedule U2 had a few fields removed. Schedule U9 has several new lines to allow for the crediting of payments amongst group members. Schedule U10 was updated to capture the current year net operating loss in the NOL carryforward and to reflect federal guidance regarding the 80% limitation.

**Form 2220-K**—The instructions were clarified to specify when a taxpayer owes an underpayment of estimated tax penalty and when a taxpayer must include Form 2220-K with their return even if they do not owe the penalty.

**Schedule RC**—The form was updated to reflect changes to the Major Recycling Credit enacted by the Legislature in 2019.

### Forms and Schedules Discontinued:

Form 720S (Including Schedule K-1 and Schedule K)  
Form 765 (Including Schedule K-1 and Schedule K)  
Form 765GP (Including Schedule K-1 and Schedule K)  
Form 725-EZ  
Form 720-V  
Schedule O-720  
Schedule O-PTE

### Electronic Filing FAQs and Helpful Tips

- **Mandatory E-File if Gross Receipts  $\geq$  \$1,000,000**—For tax years beginning on or after January 1, 2019, corporations and pass-through entities are required to e-file if their federal gross receipts are one million dollars (\$1,000,000) or greater. This applies to Forms 720, 720U, PTE, and 725.
- If your return is rejected for an invalid Kentucky Corporation/LLET Account Number or Federal Employer Identification Number (FEIN), please complete Form 20A100, "Declaration of Representative," and contact our **Registration Section at 502-564-3306** for information on how to obtain an account number.
- Direct debit is an option for electronically filed forms; however, direct deposit is not.
- If you e-filed your return and wish to make a payment by check, please use the KBR-V provided by your software vendor.
- To determine which forms are supported by your software, please check with the company that develops your software.

### More Options for Taxpayers Paying Online

The Department of Revenue (DOR) is now able to offer taxpayers additional payment options for Corporation Income Tax and Limited Liability Entity Tax (LLET). Taxpayers can make a payment online for an e-filed Corporation Income Tax and/or LLET return that would normally be sent with a KBR-V voucher. Corporation Income Tax and LLET payments for bills, estimates, and extensions can also be made using the Enterprise Electronic Payment System (EEPS). To use EEPS, go to [www.revenue.ky.gov](http://www.revenue.ky.gov) and click on the Make a Payment or File a Return tile. From the selections of tax types available, click "Corporation Income Tax" or "Limited Liability Entity Tax (LLET)" and select the Electronic Payment link. To make payments, the FEIN is required along with the Kentucky Corporation/LLET 6-digit account number.

### Filing Tips and Checkpoints

The following list of filing tips is provided for your convenience to help ensure that returns are processed accurately and promptly. To avoid processing problems, please note the following:

- **Account Closure**—There are different requirements for the Secretary of State and the Department of Revenue when ceasing operations and closing an account. It is advised that you consult with both agencies when closing a business tax account.
- **Account Number/FEIN**—Always ensure the correct Kentucky Corporation/LLET account number and FEIN is used on the return being filed.
- **Payments**—Place payments on the front of the return so that they are clearly visible. Do not leave check stubs attached to checks. Check stubs will delay the machines that sort incoming mail, which causes longer processing times.
- **Estimated Payments**—Make estimated payments on a timely basis to avoid penalty.
- **EFT Payments**—When making EFT payments online, use the Taxable Year Ending, NOT the due date of the payment.
- **Form KBR-V**—Form KBR-V is a payment voucher for e-filed and paper return payments. It is NOT an extension form. To extend a filing date, use Form 720EXT, Extension of Time to File Kentucky Corporation/LLET Return.
- **Extensions**—Extensions are for extending the filing date only; late payment penalties and interest apply to payments made after the original due date.
- **Corrected K-1's**—Adjustments to LLET or distributive share require that corrected Kentucky K-1's are sent to all partners, members, or shareholders for proper compliance by taxpayers.
- **Schedule A**—Do not check the box on Schedule A, Apportionment and Allocation, indicating the use of an alternative allocation and apportionment formula if the corporation has not received written approval from the Department of Revenue. If written approval has been received, a copy of the letter from the Department of Revenue must be attached to the return when filed.
- **Incorrect Year Forms**—Returns submitted on the wrong year form on or before the due date will be accepted as timely filed, but will require the return to be revised on the correct year form before the return can be processed.
- **Additional errors that delay processing returns:**
  - Incorrect form submitted
  - Incorrect tax exemption code
  - Incomplete information
  - Missing forms or schedules
  - Incorrect taxable year end
  - Failure to include payment of tax due with the return
  - Omitting Form 720EXT when paying with an extension

**IMPORTANT****Pass-through entities must create a Kentucky Form 4562,  
Schedule D and Form 4797 by converting federal forms.****Schedule 4562**

**Depreciation**—For property placed in service after September 10, 2001, Kentucky depreciation (§168) is determined per the Internal Revenue Code (IRC) in effect on December 31, 2001.

**Section 179 Deduction**—For property placed in service after September 10, 2001, but prior to January 1, 2020, only the expense deduction (\$25,000) allowed under §179 of the IRC in effect on December 31, 2001, exclusive of any amendments made subsequent to that date, is allowed.

For property placed in service on or after January 1, 2020, only the expense deduction (\$100,000) allowed under §179 of the IRC in effect on December 31, 2003, exclusive of any amendments made subsequent to that date, is allowed, except that the phase-out provisions of §179 of the IRC limiting the qualifying investment in property, shall not apply.

For 2020 returns, any pass-through entity 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 IRC §179 expense deduction for Kentucky:

- MACRS bonus depreciation;
- IRC §179 expense deduction in excess of \$25,000 for property placed in service after September 10, 2001, but prior to January 1, 2020; or
- IRC §179 expense deduction in excess of \$100,000 for property placed in service on or after January 1, 2020.

If a pass-through entity has taken MACRS bonus depreciation or IRC §179 expense deduction in excess of the amounts outlined above for any year, federal and Kentucky differences will exist and the differences will continue through the life of the assets.

**Important:** If a pass-through entity has not taken MACRS bonus depreciation or the IRC §179 expense deduction in excess of the amounts outlined above 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 PTE to substantiate that no adjustment is required.**

**Determining and Reporting Depreciation and IRC §179 Deduction Differences—**

1. The depreciation from federal Form 1120S, Line 14 or Form 1065, Line 16(a) and depreciation claimed on federal Form 1125-A or elsewhere on Form 1120S or Form 1065 must be included on Form PTE, 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 PTE.**
  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 (§168) per the IRC in effect on December 31, 2001, by ignoring the lines and instructions regarding the special depreciation allowance. **NOTE:** For Kentucky purposes, for property placed into service between September 10, 2001 and December 31, 2019, the maximum IRC §179 deduction amount on Line 1 is \$25,000 and the threshold cost of IRC §179 property on Line 3 is \$200,000. For property placed into service between September 10, 2001 and December 31, 2019, the maximum allowable IRC §179 deduction for Kentucky purposes is reduced dollar-for-dollar by the amount by which the cost of qualifying IRC §179 property placed in service during the year exceeds the threshold. In determining the IRC §179 deduction for Kentucky for property placed into service between September 10, 2001 and December 31, 2019, the income limitation on Line 11 should be determined by using Kentucky net income before the IRC §179 deduction instead of federal taxable income. For Kentucky purposes, for property placed into service on or after January 1, 2020, the maximum IRC §179 deduction amount on Line 1 is \$100,000 and the phase-out threshold does not apply for purposes of determining Kentucky depreciation.
3. The pass-through entity **must attach the Kentucky Form 4562** to Form PTE, and the amount from Kentucky Form 4562, Line 22 must be included on Form PTE, Part I, Line 13. A Kentucky Form 4562 must be filed for each year, even though a federal Form 4562 may not be required.

**Schedule 4797 and Schedule D**

**Gains/Losses from Disposition of Assets**—Determining and Reporting Differences in Gain or Loss From Disposition of Assets—If during the year the pass-through entity disposes of assets on which it has taken the special depreciation allowance or the additional IRC §179 deduction for federal income tax purposes, the pass-through entity 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 1120S or 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 PTE, Schedule K, Section A, Line 4(d) or 7. Enter the amount from Kentucky Schedule D, Line 15 on Form PTE, Schedule K, Section A, Line 4(e) or 7. **Federal Schedule D (Form 1120S or Form 1065) filed with the federal return and the Kentucky Schedule D must be attached to Form PTE.**
2. If the amount reported on federal Form 1120S, Line 4 or Form 1065, Line 6 (from Form 4797, Line 17) is a gain, enter this amount on Form PTE, Part I, Line 14. If the amount reported on federal Form 1120S, Line 4 or 1065, Line 6 (from Form 4797, Line 17) is a loss, enter this amount on Form PTE, Part I, Line 5. 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 listing Kentucky basis. If the amount on Kentucky Form 4797, Line 17 is a gain, enter this amount on Form PTE, Part I, Line 6. If the amount on Kentucky Form 4797, Line 17 is a loss, enter this amount on Form PTE, Part I, Line 15. **Federal Form 4797 filed with the federal return and the Kentucky Form 4797 must be attached to Form PTE.**



**Tax Treatment of S Corporation and Shareholder(s)**

A corporation which elects S corporation treatment for federal income tax purposes per §§1361(a) and 1361(b) of the IRC must file as an S corporation for Kentucky income tax purposes. For taxable years beginning on or after January 1, 2007, an S corporation is classified as a limited liability pass-through entity per KRS 141.010(16). For taxable years beginning on or after January 1, 2007, an annual limited liability entity tax (LLET) must 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 per KRS 141.0401(2), unless specifically excluded. See LLET Exemption Codes on page 9 of these instructions.

For tax years beginning on or after January 1, 2007, an S corporation is required: (1) to submit installments of tax on the recapture of LIFO reserves per IRC §1363(d); (2) pay tax on built-in gains per IRC §1374; and (3) pay tax on net passive investment income per IRC §1375. The tax rate imposed on the LIFO recapture, built-in gains, and net passive investment income is five percent (5%). **KRS 141.040(4)**

In determining tax per KRS Chapter 141, a resident individual, estate, or trust that is a shareholder of an S corporation must take into account the shareholder's total distributive share of the S corporation's items of income, loss, and deduction. In determining tax per KRS Chapter 141, a nonresident individual, estate, or trust that is a shareholder of an S corporation must take into account the shareholder's total distributive share of the S corporation's items of income, loss, and deduction multiplied by the apportionment fraction. **KRS 141.206(11)(b), KRS 141.206(7) and (8)**

Resident and nonresident individual shareholders are entitled to a nonrefundable LLET credit against tax imposed under KRS 141.020 (Kentucky individual income tax). The nonrefundable LLET credit allowed shareholders is the shareholders' 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 shareholders may be applied to the income tax assessed on income from the S corporation. Any remaining credit from the S corporation will be disallowed. **KRS 141.0401(3)**

**Banks and Savings and Loan Associations**—KRS 141.040(1) excludes financial institutions (banks and savings and loan associations) as defined in KRS 136.500 from tax on taxable net income, and KRS 141.0401(6)(a) and (b) exclude financial institutions from the LLET.

KRS 141.019(1)(h) excludes from the Kentucky adjusted gross income of the shareholders the distributive share of net income from an S corporation subject to tax under KRS 136.505, the bank franchise tax, or KRS 136.300, the savings and loan association capital stock tax. KRS 141.019(1)(h) also excludes from the Kentucky adjusted gross income of the shareholders the portion of the distributive share of net income from an S corporation related to a qualified S subsidiary subject to tax under KRS 136.505 or KRS 136.300.

An S corporation subject to tax under KRS 136.505 or KRS 136.300 should enter zero on Lines 1 through 10 of Form PTE, Schedule K. An S corporation related to a qualified S subsidiary subject to tax under KRS 136.505 or KRS 136.300 should exclude

from the amounts entered on Lines 1 through 10 of Form PTE, Schedule K the portion of these items related to the subsidiary. The net amount of the items of income and deductions excluded from Lines 1 through 10 of Form PTE, Schedule K should be entered on Line 15 of Form PTE, Schedule K. A statement should be attached to each shareholder's Form PTE, Schedule K-1 advising the shareholder that this income is excluded for Kentucky income tax purposes because the S corporation is subject to tax under either KRS 136.505 or KRS 136.300.

**GENERAL INFORMATION**

**Internal Revenue Code Reference Date**—Kentucky's Internal Revenue Code (IRC) reference date is December 31, 2018, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2018, that would otherwise terminate, for purposes of computing corporation and individual income tax, except for depreciation differences per KRS 141.0101.

**Kentucky Tax Registration Application**—Prior to doing business in Kentucky, each pass-through entity should complete a Kentucky Tax Registration Application, Form 10A100, to register for a Kentucky Corporation/LLET Account Number. This account number will be used for remitting the corporation income tax per KRS 141.040 and the LLET per KRS 141.0401.

Register your business online at <http://onestop.ky.gov> using the One Stop Business Services link.

1. Go to [onestop.ky.gov](http://onestop.ky.gov).
2. Click on the link for **One Stop Business Services**.

***Note:** The One Stop Business Services login page provides information for creating a user account as well as portal security. You will also find overview information for the services the portal currently provides. This information is updated regularly to reflect new services and notify you when additional agencies join the portal.*

3. Welcome to the Kentucky Online Gateway. Select that you are a citizen or business partner. If you do not already have an account, click on **Create Account**. Complete your Kentucky Online Gateway user account. Once a user account has been created, an email will be sent to you with further instructions to activate the account and login. You must use the activation link in the email prior to logging in to your account.
4. Once logged in, launch the Kentucky Business One Stop App.
  - If your business needs to register with both the Secretary of State and the Department of Revenue or only needs to register with the Department of Revenue, use the **Register My Business** option, to register for tax accounts and your Commonwealth Business Identifier (CBI).
  - If the business is already registered with the Secretary of State and you do not already have access to the business on your Dashboard, choose the **Link My Business** option. Enter the Commonwealth Business Identifier (CBI), SecurityToken, and Business Name exactly as it appears on your Kentucky articles of organization/incorporation, your Kentucky Certificate of Authority, or your CBI letter (including all punctuation) and link your business, click **Send Invite** and follow the instructions sent to your email to register for tax accounts.

The Link My Business option will require you to name at least one “**One-Stop Portal Business Administrator**” (for example, the business owner or representative).

***Note:** The administrator can then delegate access to other individuals—for example, an attorney, accountant, or manager. The administrator also determines the appropriate authority level for delegates to make changes—this could range from filing annual reports with the Secretary of State’s office, changing the business address, or filing and paying taxes. Only the One Stop business administrator(s) can grant, approve, withdraw, or revoke access to the business.*

5. Once you have linked your business, your business name and CBI number will appear in the My Businesses box on the dashboard, click on the CBI number, once your business loads, click on the Tax Administration tab to register for tax accounts.

The paper application is available by calling the Department of Revenue, Division of Registration and Data Integrity at 502-564-3306, or can be downloaded at [www.revenue.ky.gov](http://www.revenue.ky.gov) (click on Find a Form, and search for 10A100). The application may be faxed to 502-227-0772 or e-mailed to [DOR.Registration@ky.gov](mailto:DOR.Registration@ky.gov).

#### Who Must File—LLET and Corporation Income Tax

**LLET**—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 Pass-Through Entity Income and LLET Return (Form PTE) must be filed by every pass-through entity: (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(7), KRS141.040, KRS 141.0401, and KRS 141.206**

**Disregarded Entities**—A Qualified Sub Chapter S Subsidiary (QSSS) and a single member limited liability company (LLC) are treated in the same manner as they are treated for federal income tax purposes. Therefore, a QSSS or a single member LLC that is disregarded for federal income tax purposes should be included in the return filed by its single member (owner). All disregarded entities included in the return should be listed on the Schedule DE and attached to the return. **KRS 141.010(7) and KRS 141.200(10)**

**Pass-through Entities**—A pass-through entity doing business in Kentucky solely as a partner or member in a pass-through entity will file Form PTE per KRS 141.010, 141.120, and 141.206. (See Schedule A—Apportionment and Allocation Instructions.)

#### Nonresident Withholding and Composite Return (Form 740NP-WH)

**A partner or member that is an S corporation or partnership is not subject to withholding. S corporations and partnerships are pass-through entities per KRS 141.010(22).**

KRS 141.206(4) provides that for taxable years beginning on or after January 1, 2019, every pass-through entity required to file a return under KRS 141.206(1), except publicly traded partnerships defined in KRS 141.0401(6)(a)18 and (b)14, must withhold Kentucky income tax or file a composite return on the distributive share, whether distributed or undistributed, of each nonresident individual (**includes an estate or trust**) 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 and composite filing is at the highest rate provided in KRS 141.020 or KRS 141.040.

Withholding is not required if: (a) the partner, member, or shareholder is exempt from withholding per KRS 141.206(6)(a); (b) the partner or member is exempt from Kentucky income tax per KRS 141.040(1); (c) the pass-through entity is a qualified investment partnership per KRS 141.206(14), 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, 2019, a pass-through entity required to withhold or file a composite return on Kentucky income tax per KRS 141.206 must make estimated tax payments if required by KRS 141.206(5). If the pass-through entity is required to make estimated tax payments for taxable years beginning on or after January 1, 2019, use Form 740NP-WH-ES (Kentucky Estimated Tax Voucher).**

The reporting of a nonresident individual’s, estate’s, or trust’s net distributive share income and withholding on Form 740NP-WH at the rate of five percent (5%) will 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 partners’, members’, or shareholders’ distributive share of income must 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(15)). 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 credits and deductions.

A pass-through entity must file Form 740NP-WH and complete a Form PTE-WH for each nonresident individual, estate, or trust partner, member, or shareholder; or corporate partner or member. Form 740NP-WH with Copy A of each Form PTE-WH must be filed and paid by the 15th day of the fourth month following the close of the taxable period. Provide copies B and C of Form PTE-WH to the partner, member, or shareholder.

**Required Forms and Information**—A pass-through entity must enter all applicable information on Form PTE, 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. Pass-through Entity Income and LLET Return (Form PTE)
2. Kentucky Shareholder’s Share of Income, Credits, Deductions, Etc.—Schedule K-1 (Form PTE)
3. Apportionment and Allocation (Schedule A)
4. Limited Liability Entity Tax—Continuation Sheet (Schedule L-C)
5. Cost of Goods Sold (Schedule COGS)
6. Application for Filing Extension (Form 720EXT). General Partnerships may also use Form 40A102
7. Tax Credit Summary Schedule (Schedule TCS)
8. Related Party Costs Disclosure Statement (Schedule RPC)
9. Disregarded Entity Schedule, if applicable (Schedule DE)

#### Required Federal Forms and Schedules

All pass-through entities **must** provide a copy of the following federal forms submitted to the Internal Revenue Service:

1. Form 1120S or 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 1120S or 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)**—The Department of Revenue accepts electronically filed Corporation Income Tax/Limited Liability Entity Tax estimated tax voucher payments and extension payments for corporation income tax and limited liability entity tax. Before filing by EFT, the pass-through entity must have a valid six-digit Kentucky Corporation/LLET account number and have registered with the Department of Revenue to pay EFT. **Using an incorrect account number, such as an account number for withholding or sales and use tax, may result in the payment being credited to another taxpayer’s account.** When making EFT payments online, use the Taxable Year Ending, NOT the due date of the payment.

For more information, contact the Department of Revenue at 800-839-4137 or 502-564-6020. The EFT registration form is available at [www.revenue.ky.gov](http://www.revenue.ky.gov).

**Accounting Procedures**—Kentucky income tax law requires a pass-through entity 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. Check the applicable box on page 1, Item G, and attach a copy of the federal approval to the return when filed. **KRS 141.140**

**Mailing/Payment**—Only include payment for corporation income tax and/or LLET. No payment is due for general partnerships filing Form PTE.

Mail the return **with payment to:**

Make the check(s) payable to the **Kentucky State Treasurer.**

Kentucky Department of Revenue  
Frankfort, KY 40620-0021

Mail returns **with no tax due or refund** requests to:

Kentucky Department of Revenue  
P. O. Box 856905  
Louisville, KY 40285-6905

**Filing/Payment Date**—A pass-through entity 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)**

**Extensions**—A six-month extension of time to file a Pass-through Entity Income and LLET return may be obtained by filing Form 720EXT by the original due date of the return 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 pass-through entity is making a payment with its extension, Kentucky Form 720EXT must be used. For further information, see the instructions for Form 720EXT. **103 KAR 15:050**

Or, a General Partnership may file Form 40A102, Application for Extension of Time to File Individual, General Partnership, and Fiduciary Income Tax Returns.

**Federal Extension**—An S corporation or limited liability pass-through entity granted an extension of time for filing a federal income tax return will be granted the same extension of time for filing a Kentucky income and LLET return for the same taxable year provided a copy of the federal Form 7004 is attached to the Kentucky return when it is filed. **A copy of the federal Form 7004 should not be mailed to the Department of Revenue before filing the return.**

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



**Estimated Taxes**

**The Corporation Income/Limited Liability Entity Tax Estimated Tax Voucher, Form 720ES**, is used to submit estimated tax payments for corporation income tax and LLET. See **Electronic Funds Transfer (EFT)**. If the pass-through entity is required to make estimated tax payments and needs Form 720ES vouchers, contact the Department of Revenue at 502-564-3658.

**Estimated Tax Payments**—A pass-through entity must make estimated tax installments if its combined tax liability under KRS 141.040 and 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, 25% of the estimated tax must be paid by the 15th day of the 4th month, 15th day of the 6th month, 15th day of the 9th month, and the 15th day of the 12th month of the tax year.

**Recalculating Estimated Tax**—If after the pass-through entity calculates and pays its estimated tax, it finds that its tax liability for the year will be more or less than originally estimated, it may have to recalculate its required installments. If earlier installments were underpaid, the pass-through entity may owe a penalty. An immediate payment should be made to reduce the amount of penalty resulting from the underpayment of earlier installments, whether caused by a change in estimate, failure to make a payment, or a mistake.

**Penalty**—Failure to make estimated installments, pay an estimated installment in full, or pay estimated installments timely will result in an addition to tax that will be considered a penalty under KRS 141.044. The tax interest rate identified under KRS 131.183 is the underpayment rate used to calculate the penalty. The entity should use Form 2220-K to determine the penalty. **KRS 141.044 and KRS 141.990**

**Amended Return**—To correct Form PTE as originally filed, file an amended Form PTE and check the appropriate box on page 1, Item G. 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 or shareholders, an amended Schedule K-1 (Form PTE) must also be filed with the amended Form PTE and a copy given to each partner or shareholder. Check Item E(2) on each Schedule K-1 to indicate that it is an amended Schedule K-1.

**Internal Revenue Service Audit Adjustments**—A pass-through entity which has received final adjustments resulting from an Internal Revenue Service audit must submit copies of the “final determinations of the federal audit” within 180 days of the conclusion of the federal audit. Use Form PTE or prior year’s Form 720S or 765 for reporting federal audit adjustments, check the Amended Return box, and attach the complete Revenue Agent Report (RAR). **Failure to submit the required amended form will result in delays in processing refunds requested. Any refund claim resulting from a federal audit adjustment must be filed within four years of the date the tax was paid or within six months of the conclusion of the federal audit, whichever is later. KRS 141.211(2) and KRS 141.235(2)(b)**

**Mail returns with federal audit adjustments (RAR) to:**

Corporate Governmental Programs Section  
P. O. Box 1074, Station 68  
Frankfort, KY 40602-1074

**Interest**—Interest at the tax interest rate plus two percent is applied to corporation income and LLET liabilities not paid by the date prescribed by law for filing the return (determined without regard to extensions thereof). See page 2 for the current year rate.

**Penalties—Refer below.**

**Failure to file a Kentucky Pass-Through Entity Income Tax and LLET Return by the filing date including extensions**—2 percent of the tax due for each 30 days or fraction thereof that the return is late (maximum 20 percent). The minimum penalty is \$10 for each tax. **KRS 131.180(1)**

**Failure to pay income tax and/or LLET by the payment date**—2 percent of the tax due for each 30 days or fraction thereof that the payment is overdue (maximum 20 percent). The minimum penalty is \$10 for each tax. **KRS 131.180(2)**

**Failure to make estimated installments, pay an estimated installment in full, or pay estimated installments timely**—The addition to tax is considered a penalty under KRS 141.044. The underpayment rate is the tax interest rate identified under KRS 131.183. **KRS 141.044**

**Failure or refusal to file a Kentucky Pass-Through Entity Income Tax 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(3)**

**Negligence**—10 percent of the tax assessed. **KRS 131.180(6)**

**Fraud**—50 percent of the tax assessed. **KRS 131.180(7)**

**Cost of Collection Fees**—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)**

**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.



**FORM PTE—SPECIFIC INSTRUCTIONS**

**Period Covered**—File the 2020 return for calendar year 2020 and fiscal years that begin in 2020. For a fiscal year, fill in the taxable period beginning and ending at the top of Form PTE.

**NOTE:** For 52/53 week filers, fill in the taxable period beginning and ending dates as specified below:

- Begin on the first day of the calendar month beginning nearest to the first day of the 52/53-week tax year.
- End on the last day of the calendar month ending nearest to the last day of the 52/53-week tax year.

**Item A**—Check the box that applies to the entity type filing this return.

**Item B**—Enter the pass-through entity’s federal identification number (FEIN). See federal Publication 583 if the pass-through entity has not obtained this number.

**Item C**—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.

**Using an incorrect account number, such as an account number for withholding or sales and use tax or the Kentucky Secretary of State organization number, may result in the payment and/or return being credited to another taxpayer’s account.**

**If the Kentucky Corporation/LLET Account Number is not known, complete Form 20A100, “Declaration of Representative,” and contact Registration at 502–564–3306 for instructions on how to obtain an account number.**

**Item D**—LLET Exemption Code

If the pass-through entity is exempt from LLET, 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
10	A public service corporation subject to tax under KRS 136.120. <b>(S corporations only)</b>
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.
18	A personal service corporation as defined in §269A(b)(1) of the Internal Revenue Code. <b>(S corporations only)</b>
21	A qualified investment partnership as defined in KRS 141.206(14)(a).

**NOTE:** LLET Exempt codes are not applicable to general partnerships.

**Item E**—Income Tax Exemption Code

If the pass-through entity is exempt from income tax, 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 S corporation is exempt from income tax as provided by Public Law 86–272.

**Item F**—Provider 3-Factor Apportionment Code

If the entity is a provider as defined in KRS 141.121(1)(e), enter one of the following two–digit codes in the space provided. The apportionment fraction for a provider continues to be calculated using a three (3)- factor formula as provided in KRS 141.901 for tax years beginning on or after January 1, 2018.

**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	PROVIDER BUSINESS
31	Communications service as defined in KRS 136.602;
32	Cable service as defined in KRS 136.602;
33	Internet service as defined in 47 U.S.C. sec. 151; or
34	Other (attach statement)

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

- *Publicly Traded Partnership*—The pass-through entity is a publicly traded partnership as provided by KRS 141.0401(6)(r).
- *Qualified Investment Partnership*—The pass-through entity is a qualified investment partnership per KRS 141.206(14)(a).
- *LLC*—The pass-through entity is a Limited Liability Company (LLC).
- *LP*—The pass-through entity is a Limited Partnership (LP).
- *LLP*—The pass-through entity is a Limited Liability Partnership (LLP).
- *Initial Return*—This is the pass-through entity’s first Kentucky tax return filed. Complete questions 1 and 2 on Schedule Q—Questionnaire.
- *Change of Accounting Period*—The entity has changed its accounting period since it filed its prior year Kentucky tax return. Attach a statement to the tax return showing the entity’s taxable year end before the change and the new taxable year end. If the entity received written approval from the Internal Revenue Service to change its taxable year, attach a copy of the letter.

- **Amended Return**—This is an amended tax return. Provide an explanation of all changes in Part V—Explanation of Amended Return Changes.
- **Short-period Return**—This return is for a period of less than one year and not an initial return or a final return. Check the appropriate box in Part IV—Explanation of Final Return and/or Short-Period Return.
- **Final Return**—This is the pass-through entity's final Kentucky tax return. Check the appropriate box in Part IV—Explanation of Final Return and/or Short-Period Return.

**Item H**—Enter the number of K-1's issued or received and the number of owners included in this return.

**Name and Address**—Print or type the pass-through entity's name as set forth in the charter or 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 entity has a P.O. Box, show the box number instead of the street address.

**Change of Name**—Check the box if the pass-through entity's name has changed since the filing of the prior year Kentucky tax return. Attach a statement to the tax return providing the pass-through entity's name reflected on the prior year Kentucky tax return.

**Telephone Number**—Enter the business telephone number of the principal officer or chief accounting officer signing this return.

**State of Organization**—Enter the state of organization.

**Date of Organization**—Enter the 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 Census Bureau at [www.census.gov/eos/www/naics](http://www.census.gov/eos/www/naics).

## PART I—ORDINARY INCOME (LOSS) COMPUTATION

**Line 1**—Enter the amount from federal Form 1120S, Line 21, or Form 1065, Line 22 ordinary income (loss) from trade or business activities. **Attach Form 1120S or Form 1065, all pages.**

**Additions to Federal Ordinary Income**—Lines 2 through 10 itemize additional income or disallowed 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 federal Form 1120S or 1065. **KRS 141.039(2)(c)**

**Line 3**— See instructions on page 4 regarding depreciation and IRC §179 deduction differences, and if applicable, include the total of depreciation amounts from Form 1120S, Line 14

or Form 1065, Line 16(a), Form 1125-A and elsewhere on the return (do not include the IRC §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 expense additions from Schedule RPC, Part II, Section B, Line 1.

**Line 5**—Enter the federal loss from federal Form 1120S, Line 4 or federal Form 1065, Line 6. If the loss from Form 4797, Line 17 is the same for both federal and Kentucky, do not make an entry on this line.

**Line 6**—Enter the Kentucky gain from Kentucky Form 4797, Line 17. If the gain from Form 4797, Line 17 is the same for both federal and Kentucky, do not make an entry on this line.

**Line 7**—Enter federal allowable depletion from federal Form 1120S, Line 15 or federal Form 1065, Line 17. Do not deduct depletion for oil and gas properties as each partner, member, or shareholder figures depletion on oil and gas properties. If the depletion is the same for both federal and Kentucky, do not make an entry on this line.

**Line 8**—Enter the difference of the Kentucky distributive share income amounts from Kentucky Schedule(s) K-1 in excess of federal distributive share amounts from federal Schedule(s) K-1.

**Line 9**—Enter the addition to federal taxable income equal to the excess of Kentucky taxable income over federal taxable income resulting from amendments to the IRC (excluding amendments affecting depreciation and the IRC §179 deduction) subsequent to the applicable IRC date. Attach a schedule to the tax return showing the detail of the addition, including the related IRC section(s).

**Line 10**—Enter any other additions to federal income not reported on Lines 2 through 9, and attach an explanation to the tax return.

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

**Subtractions from Federal Ordinary Income**—Lines 12 through 19 itemize additional deductions allowed which are differences between federal ordinary income and Kentucky ordinary income.

**Line 12**—Enter the amount of the work opportunity credit reflected on federal Form 5884. For Kentucky purposes, the pass-through entity 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 13**—Enter Kentucky depreciation (do not include IRC §179 deduction). See instructions on page 4 regarding depreciation and IRC §179 deduction differences, and if applicable, Kentucky Form 4562 must be attached.

**Line 14**—Enter the federal gain from federal Form 1120S, Line 4 or federal Form 1065, Line 6. If the gain from Form 4797, Line 17 is the same for both federal and Kentucky, do not make an entry on this line.

**Line 15**—Enter the Kentucky loss from Kentucky Form 4797, Line 17. If the loss from Form 4797, Line 17 is the same for both federal and Kentucky, do not make an entry on this line.

**Line 16**—Enter Kentucky allowable depletion using Kentucky taxable income and deductions. If the depletion is the same for both federal and Kentucky, do not make an entry on this line. **To determine the allowable depletion deduction for Kentucky purposes, the percentage limitations per the IRC must be applied using Kentucky taxable income and deductions.**

**Line 17**—Enter the difference of the federal distributive share income amounts from federal Schedule(s) K-1 in excess of Kentucky distributive share amounts from Kentucky Schedule(s) K-1.

**Line 18**—Enter the subtraction from federal taxable income equal to the excess of federal taxable income over Kentucky taxable income resulting from amendments to the IRC (excluding amendments affecting depreciation and the IRC §179 deduction) subsequent to the applicable IRC date. Attach a schedule to the tax return showing the detail of the subtraction, including the related IRC section(s).

**Line 19**—Enter any other subtractions from federal income not reported on Lines 12 through 18, and attach an explanation to the tax return.

**Line 20**—Enter the total of Lines 12 through 19.

**Line 21**—Subtract Line 20 from Line 11.

## PART II—LLET COMPUTATION

**Line 1**—Enter the amount from Schedule L, Section E, Line 1.

**Line 2**—Enter the sum of all tax credit recapture amounts from Schedule RC–R, Line 12, Form 8874(K)-B, Line 3, and/or Schedule DS, page 2, Line 10. **Attach Schedule RC–R, Form 8874(K)-B and/or Schedule DS.**

**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 nonrefundable tax credits from Schedule TCS, Part III, Column E, Line 1 (**attach Schedule TCS**).

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

**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 (PTE).**

**Line 9**—Enter the refundable film industry tax credit. **Attach the Kentucky Film Office certification(s) or Kentucky**

## Schedule(s) K-1 (PTE).

**NOTE: For applications approved prior to April 27, 2018, this credit is refundable and should be entered here. For applications approved on or after April 27, 2018, this credit is nonrefundable and should be entered on Schedule TCS.**

**Line 10**—Enter the amount of LLET paid with Form 720EXT, Extension of Time to File Kentucky Corporation/LLET Return.

**Line 11**—Enter the amount credited to 2020 LLET from Form 720S, Part I, Line 20 or Form 765, Part II, Line 18 of the 2019 return.

**Line 12**—Enter the income tax overpayment from Part III, Line 13 credited to the 2020 LLET. If filing an amended return, enter the amount from the original return.

**Line 13**—Enter the LLET paid on the original return. **This line is used only when filing an amended return.**

**Line 14**—Enter the LLET overpayment on the original return. **This line is used only when filing an amended return.**

**Line 15**—Enter the Estimated Tax Penalty and attach Form 2220-K.

**Line 16**—If the total of Lines 6, 14, and 15 is greater than the total of Lines 7 through 13, enter the LLET due on this line and on Form KBR-V, Corp/LLET Payment Voucher.

**Line 17**—If the total of Lines 6, 14, and 15 is less than the total of Lines 7 through 13, enter the difference on this line as a positive number.

**Line 18**—If an underpayment exists on Part III, Line 11, **Income tax due**, enter the portion of the overpayment on Line 17 to be credited to the 2020 corporation income tax. Enter the amount on this line and on Part III, Line 8.

**Line 19**—If Line 17 reflects an overpayment, enter the portion of Line 17 to be credited to 2020 LLET interest due.

**Line 20**—If Line 17 reflects an overpayment, enter the portion of Line 17 to be credited to the 2020 LLET penalty due.

**Line 21**—If Line 17 reflects an overpayment, enter the portion of Line 17 to be credited to 2021 LLET.

**Line 22**—If Line 17 reflects an overpayment, enter the portion of Line 17 to be refunded (Line 17 less Lines 18 through 21).

## PART III – INCOME TAX COMPUTATION

**For S Corporations: Complete Lines 1 through 3**

**Partnerships: If box is checked, skip to Line 4**

**Line 1**—Enter tax from the Excess Net Passive Income Tax Worksheet, Line 13. (See instructions and worksheet on page 17.)

If the S corporation has accumulated earnings and profits at the close of its tax year, has passive investment income for

the tax year that is in excess of twenty-five percent of gross receipts, and has excess passive income, the S corporation must pay a tax on the excess net passive income per KRS 141.040(4)(c). Complete Lines 1 through 3 and Line 9 of the worksheet on page 17 to make this determination. If Line 2 is greater than Line 3 and the S corporation has taxable income (see instructions for Line 9 of worksheet), it must pay the tax. **Attach completed worksheet to the return.**

**Line 2**—Enter the built-in gains tax from the Built-In Gains Tax Worksheet, Line 8. **Attach completed worksheet to the return.** (See instructions and worksheet on page 17.)

If the S corporation for the taxable year has built-in gains per IRC §1374, the S corporation must pay a built-in gains tax as provided by KRS 141.040(4)(c).

IRC §1374 provides that the built-in gains tax may apply to the following S corporations: (1) An S corporation that was a C corporation before it elected to be an S corporation; or (2) An S corporation that acquired an asset with a basis determined (in whole or in part) by reference to its basis (or the basis of any other property) in the hands of a C corporation per IRC §1374(d)(8).

An S corporation may owe tax if it has net recognized built-in gain during the applicable recognition period. The applicable recognition period is the ten (10) year period beginning: (1) For an asset held when the S corporation was a C corporation, on the first day of the first tax year for which the corporation is an S corporation; or (2) For an asset with a basis determined by reference to its basis (or the basis of any other property) in the hands of the C corporation, on the date the asset was acquired by the S corporation.

A corporation must compute the built-in gains tax separately for the group of assets it held at the time its S election became effective and for each group of assets it acquired from a C corporation with the basis determined (in whole or in part) by reference to the basis of the asset (or any other property) in hands of the C corporation. For details, see §1.1374-8 of the Treasury Regulations.

**Line 3**—Enter the amount of Tax installment on LIFO recapture. The first installment is paid on the C corporation's final return, and the remaining three installments are paid on the S corporation's first three tax returns. **Attach a schedule showing the amounts and dates of the installments paid by the S corporation.**

**Line 4**—Total

**S Corporation:** Enter the total of Lines 1 through 3, but not less than zero.

**Partnership:** Enter the tax due that the partnership elects to pay on behalf of its partners resulting from an IRS audit.

**Line 5**—Enter the total of the estimated income tax payments made for the taxable year. Do not include the amount credited from the prior year.

**Line 6**—Enter the amount of income tax paid with Form 720EXT, Extension of Time to File Kentucky Corporation/LLET Return.

**Line 7**—Enter the amount credited to the 2020 income tax from Form 720S, Part II, Line 16 of the 2019 return.

**Line 8**—Enter the LLET overpayment credited to the 2020 income tax from Part II, Line 18. If filing an amended return, enter the amount from the original return.

**Line 9**—Enter the income tax paid on the original return. **This line is used only when filing an amended return.**

**Line 10**—Enter the income tax overpayment on the original return. **This line is used only when filing an amended return.**

**Line 11**—If the total of Lines 4 and 10 is greater than the total of Lines 5 through 9, enter the difference on this line and on Form KBR-V, Corp/LLET Payment Voucher.

**Line 12**—If the total of Lines 4 and 10 is less than the total of Lines 5 through 9, enter the difference on this line as a positive number.

**Line 13**— If an underpayment exists on Part II, Line 16, **LLET due**, enter the portion of the overpayment on Line 12 to be credited to the 2020 LLET. Enter the amount on this line and on Part II, Line 12.

**Line 14**— If Line 12 reflects an overpayment, enter the portion of Line 12 to be credited to 2020 corporation income tax interest due.

**Line 15**— If Line 12 reflects an overpayment, enter the portion of Line 12 to be credited to the 2020 corporation income tax penalty due.

**Line 16**— If Line 12 reflects an overpayment, enter the portion of Line 12 to be credited to 2021 corporation income tax.

**Line 17**— If Line 12 reflects an overpayment, enter the portion of Line 12 to be refunded (Line 12 less Lines 13 through 16).

#### SCHEDULE K (FORM PTE)

**General Instructions**—Complete all applicable lines by entering the total pro rata share amount for each item listed. Federal instructions for Form 1120S or 1065 and federal Schedule K provide additional information which will assist the pass-through entity in completing Schedule K, Form PTE.

A pass-through entity must use Form PTE(K), Kentucky Schedule K For Pass-Through Entities With Economic Development Project(s), if the pass-through entity has one or more projects under the Kentucky Rural Economic Development Act (KREDA), Kentucky Industrial Development Act (KIDA), Kentucky Jobs Retention Agreement (KJRA), Kentucky Industrial Revitalization Act (KIRA), Kentucky Jobs Development Act (KJDA), Kentucky Business Investment Program (KBI), Kentucky Reinvestment Act (KRA), Incentives for Energy Independence Act (IEIA), or Farming Operation Networking Project (FON).

**NOTE: Banks and savings and loan associations see special instructions under Tax Treatment of S Corporation and Shareholder(s) on page 5 of these instructions.**



**Section A—Income (Loss) and Deductions**

**Line 1**—Enter Kentucky ordinary income (loss) from Form PTE, Part I, Line 21.

**Line 2**—Enter net income (loss) from rental real estate activities reported on federal Schedule K, Form 1120S or 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 1120S or Form 1065.

**Line 3(b)**—Enter the expenses from other rental activities reported on federal Schedule K, Form 1120S or 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 1120S or 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 1120S or Form 1065.

**Line 4(d)**—See instructions on page 4 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 PTE. **Kentucky Schedule D must be attached to Form PTE.** Otherwise, enter the amount from Line 7 of the federal Schedule D (Form 1120S or Form 1065) that is portfolio income.

**Line 4(e)**—See instructions on page 4 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 PTE. **Kentucky Schedule D must be attached to Form PTE.** Otherwise, enter the amount from Line 15 of the federal Schedule D (Form 1120S or 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 PTE.

**Line 5—Partnerships Only**—Guaranteed payments to partners

**Line 6**—See instructions on page 4 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 PTE.** Otherwise, enter net gain (loss) under IRC §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 Kentucky Schedule K, Line 7.

**Line 7**—Enter all other items of income (loss) of the pass-through entity not included on Lines 1 through 6. See federal instructions for Schedule K, Form 1120S or Form 1065.

**Line 8**—Enter total contributions paid by the pass-through entity 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.

**Line 9**—See instructions on page 4 regarding **depreciation and IRC §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 IRC §179 deduction from federal Form 4562.

**Line 10**—Enter the expenses related to portfolio income reported on federal Schedule K, Form 1120S or Form 1065, adjusted to exclude expenses related to tax-exempt interest income and other exempt income.

**Line 11**—Enter any other deductions of the pass-through entity not included on Lines 6 through 9. See federal instructions for Schedule K, Form 1120S or Form 1065.

**Line 12(a)**—Enter the pass-through entity'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 1120S or 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 PTE, and only the investment expenses included on Line 10, Schedule K, Form PTE. See federal instructions for Schedule K, Form 1120S or Form 1065.

**Line 13**—Use the following codes for tax credits passed through to the owners:

**KSBTC**—Kentucky Small Business tax credit per KRS 141.384; attach a copy of the Kentucky Economic Development Finance Authority notification.

**KSFTC**—Kentucky Selling Farmers tax credit per KRS 141.3841; attach a copy of the Kentucky Economic Development Finance Authority notification.

**STICA**—Skills Training Investment Credit Act tax credit per KRS 141.405; attach copy of the Bluegrass State Skills Corporation certification(s).

**CR**—Certified Rehabilitation tax credit per KRS 171.397; attach a copy of the Kentucky Heritage Council certification(s).

**UTC**—Kentucky Unemployment tax credit per KRS 141.065; attach Schedule UTC.

**RC**—Recycling/Composting Equipment tax credit per KRS 141.390; attach Schedule RC.

**KIFA**—Kentucky Investment Fund tax credit per KRS 154.20-258; attach a copy of the Kentucky Economic Development Finance Authority notification with the credit amount granted and the first year the credit may be claimed.

**QR**—Qualified Research facility tax credit per KRS 141.395; attach Schedule QR.

**GED**—GED incentive tax credit per KRS 151B.402; attach GED-Incentive Program Final Report (Form DAEL-31) for each employee that completed a learning contract during the year.

**VERB**—Voluntary Environmental Remediation tax credit per KRS 141.418; attach Schedule VERB.

**BIO**—Biodiesel tax credit per KRS 141.424; attach Schedule BIO.

**CCI**—Clean Coal Initiative tax credit per KRS 141.428; attach Schedule CCI.

**ETH**—Ethanol tax credit per KRS 141.4242; attach Schedule ETH.

**CELL**—Cellulosic Ethanol tax credit per KRS 141.4244; attach Schedule CELL.

**RR-I**—Railroad Maintenance and Improvement tax credit per KRS 141.385; attach Schedule RR-I.

**ENDOW**—ENDOW Kentucky tax credit per KRS 141.438; attach Schedule ENDOW.

**NMDP**—New Markets Development Program tax credit per KRS 141.434; attach Form 8874(K)-A.

**DS**—Distilled Spirits tax credit per KRS 141.389; attach Schedule DS.

**FILM**—Film Industry tax credit per KRS 141.383; attach film office certification.

**INV**—Inventory tax credit per KRS 141.408; attach Schedule INV.

**General Partnerships Only: Applies to Refundable Tax Credits on Lines 14 and 15**

**Line 14**—Enter Certified rehabilitation tax credit (attach Kentucky Heritage Council certification(s)).

**Line 15**—Enter the Film industry tax credit (attach Kentucky Film Office Certification(s)).

**Line 16(a)**—Enter the information provided on federal Schedule K, Form 1120S, Line 12c(1) or Schedule K, Form 1065, Line 13c(1).

**Line 16(b)**—Enter the amount reported on federal Schedule K, Form 1120S, Line 12c(2) or Schedule K, Form 1065, Line 13c(2).

**Line 17**—Enter the total amount of interest income of the pass-through entity from U.S. government bonds and

securities and obligations of Kentucky and its political subdivisions.

**Line 18**—Enter the total amount of any other type of income of the pass-through entity on which the owner is exempt from Kentucky income tax.

**Line 19**—Enter the total amount of nondeductible expenses paid or incurred by the pass-through entity 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 PTE, capital expenditures, or items for which the deductions are deferred to a later year.

**Line 20**—Enter the amount reported on federal Schedule K, Form 1120S, Line 16d or Schedule K, Form 1065, Line 19a and 19b, adjusted to reflect any differences in Kentucky and federal income tax laws, such as depreciation.

**Line 21**—Attach schedules to report the pass-through entity's total income, expenses, and other information applicable to items not included on Lines 1 through 11 and lines 13 through 19 including, but not limited to, any recapture of IRC §179 deduction, gross income, and other information relating to oil and gas well properties enabling the owners to figure the allowable depletion deduction, and any other information the owners need to prepare their Kentucky income tax returns. See federal instructions for Schedule K, Form 1120S, Line 12d or Schedule K, Form 1065, Line 13d.

**S Corporations Only:**

**Line 22**—Enter the amount reported on federal Schedule K, Form 1120S, Line 17c adjusted to reflect any differences in Kentucky and federal income tax laws, such as depreciation.

**SECTION B—LLET Pass-through Items (Required)**

**Line 1**—Enter the pass-through entity's Kentucky gross receipts from Schedule L, Section A, Line 2.

**Line 2**—Enter the pass-through entity's total gross receipts from Schedule L, Section B, Line 1.

**Line 3**—Enter the pass-through entity's Kentucky gross profits from Schedule L, Section A, Line 5.

**Line 4**—Enter the pass-through entity's total gross profits from Schedule L, Section B, Line 3.

**Line 5**—Enter the limited liability entity tax (LLET) nonrefundable credit from page 3, Part II, the total of Lines 4 and 6, less \$175.

**SECTION C—Apportionment Pass-through Items (if applicable)**

**Line 1**—Enter the pass-through entity's Kentucky receipts from Schedule A, Part I, Line 1.

**Line 2**—Enter the pass-through entity's total receipts from Schedule A, Part I, Line 2.

**Section D—Apportionment for Providers (KRS 141.121(1)(e))**

**Line 1**—Enter the pass-through entity's Kentucky property from Schedule A, Part I, Line 5.

**Line 2**—Enter the pass-through entity’s total property from Schedule A, Part I, Line 6.

**Line 3**—Enter the pass-through entity’s Kentucky payroll from Schedule A, Part I, Line 8.

**Line 4**—Enter the pass-through entity’s total payroll from Schedule A, Part I, Line 9.

#### SCHEDULE L—LIMITED LIABILITY ENTITY TAX COMPUTATION

**Purpose of Schedule**—Schedule L, Limited Liability Entity Tax Computation, is used to compute the limited liability entity tax (LLET) per KRS 141.0401(2). Kentucky gross receipts, Kentucky gross profits, total gross receipts from all sources, and total gross profits from all sources must be completed per KRS 141.0401(1). See the line-by-line instructions below.

**Short-Period Computation of LLET**—For short-period returns, annualizing gross receipts or gross profits is not permitted. A minimum of \$175 is due per taxable year. *Taxable year* is defined as the period for which the return is made. **KRS 141.010(29)**

#### SPECIFIC LINE INSTRUCTIONS

**Check Box**—If the entity is required to attach Schedule L-C, check the box.

#### Section A—Computation of Kentucky Gross Receipts and Gross Profits

If the pass-through entity filing the tax return is a partner or member of a limited liability pass-through entity or general partnership doing business in Kentucky, complete Schedule L-C and enter the total amounts from Schedule L-C, Section A, Lines 2 and 5 on Schedule L, Section A, Lines 2 and 5; and the total amounts from Schedule L-C, Section B, Lines 1 and 3 on Schedule L, Section B, Lines 1 and 3, and continue to Schedule L, Sections C, D, and E. If the amount in Section B, Line 1 or 3 is \$3,000,000 or less, STOP, and enter \$175 in Section E, Line 1.

**Line 1(a)**—Enter Kentucky gross receipts less returns and allowances. Gross receipts includes, but is not limited to sales, rent, proceeds from the sale of real and tangible personal property, interest, and dividends.

**Line 1(b)**—Enter Kentucky gross receipts allocable to a “qualified exempt organization” defined in KRS 141.0401(7).

**Line 3(a)**—Enter the Kentucky cost of goods sold from Schedule COGS, Column A, Line 8. For any activity other than manufacturing, producing, reselling, retailing, or wholesaling, no costs can be claimed. **KRS 141.0401(1)(d)**

**Line 3(b)**—Enter the Kentucky cost of goods sold associated with the gross receipts allocable to a “qualified exempt organization” defined in KRS 141.0401(7).

#### Section B—Computation of TOTAL Gross Receipts and Gross Profits

**Line 1**—Enter adjusted gross receipts. Gross receipts includes, but is not limited to sales, rent, proceeds from the sale of real and tangible personal property, interest, and dividends.

**Line 2**—Enter the total cost of goods sold from Schedule COGS Column B, Line 8.

#### Section C—Computation of Gross Receipts LLET

**Line 1**—If gross receipts from all sources (Section B, Line 1) are greater than \$3,000,000, but less than \$6,000,000, enter the following:  $(\text{Section A, Line 2} \times 0.00095) - (\$2,850 \times ((\$6,000,000 - \text{Section A, Line 2}) / \$3,000,000))$ , but in no case shall the result be less than zero.

**Line 2**—If gross receipts from all sources (Section B, Line 1) are \$6,000,000 or greater, enter the following: Section A, Line 2  $\times 0.00095$ .

**Line 3**—Enter the amount from Line 1 or Line 2.

#### Section D—Computation of Gross Profits LLET

**Line 1**—If gross profits from all sources (Section B, Line 3) are greater than \$3,000,000, but less than \$6,000,000, enter the following:  $(\text{Section A, Line 5} \times 0.0075) - (\$22,500 \times ((\$6,000,000 - \text{Section A, Line 5}) / \$3,000,000))$ , but in no case shall the result be less than zero.

**Line 2**—If gross profits from all sources (Section B, Line 3) are \$6,000,000 or greater, enter the following: Section A, Line 5  $\times 0.0075$ .

**Line 3**—Enter the amount from Line 1 or Line 2.

#### Section E—Computation of LLET

**Line 1**—Enter the lesser of Section C, Line 3 or Section D, Line 3 here and on Page 4, Part II, line 1. If less than \$175, enter the minimum of \$175 here and on page 4, Part II, Line 1.



**Signature**—Form PTE must be signed by an authorized owner (member) or corporate officer. Failure by owner (member) or corporate officers 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.

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

##### General Instructions

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

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

**Specific Instructions**

Federal instructions for Schedule K-1 explain the rules for allocating items of income (loss), deductions, credits, etc., to each shareholder. The total share items reported on all Kentucky Schedules K-1, Lines 1 through 22 must equal the amounts reported on Kentucky Schedule K, Lines 1 through 22. The total share items reported on all Schedules K-1, Sections B, C, and D must equal the amounts reported on the comparable lines of Schedule K, Sections B, C, and D. Schedule K-1, Section E does 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 PTE), the S corporation must provide information for each activity to its shareholders. See **Passive Activity Reporting Requirements** in the instructions for Schedule K-1 (Form 1120S) for details on the information to be provided on an attachment to Schedule K-1 (Form PTE) for each activity.

**At-Risk Activities**—If the S corporation is involved in one or more at-risk activities for which a loss is reported on Schedule K-1 (Form PTE), the S corporation 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 1120S) for details on the information to be provided on an attachment to Schedule K-1 (Form PTE) for each at-risk activity.

**Sections A, B, C, and D**—Enter the shareholder's total pro rata share of each item listed on Schedule K, Form PTE. **Do not multiply these amounts by the percentage entered on Item B(2).** Attach schedules showing separately the required information for each IRC §469 passive activity and each IRC §465 at-risk activity. Other schedules are to be attached for line items where requested on Schedule K-1 (Form PTE).

Enter on attached schedules the supplemental information required to be reported separately to each shareholder for Lines 1 through 19 and any other information or items and amounts not included on Schedule K-1 (Form PTE) for which the shareholder needs to prepare a Kentucky income tax return including, but not limited to, any recapture of IRC §179 deduction, gross income, and other information relating to oil and gas well properties enabling the shareholder to figure the allowable depletion deduction, etc. See instructions for federal Schedule K-1 (Form 1120S), Line 17.



**Instructions for Excess Net Passive Income Tax Worksheet:**

1. Enter the gross receipts for the tax year. Also see §1362(d)(3)(B) of the IRC. Income on Line 1 is from total operations for the year and includes income from Form PTE, Part III as well as income reported separately on Schedule K.
2. Enter the passive investment income as defined in §1362(d)(3)(C) of the IRC. Deductions on Line 2 are from total operations for the year and include deductions from Form PTE, Part III as well as those reported separately on Schedule K. See §1375(b)(4) of the IRC for an exception regarding this line.
3. Enter 25% of the amount on Line 1 (If Line 2 is less than Line 3, stop here. You are not liable for this tax.)
4. Enter the amount of Line 2 less Line 3.
5. Enter deductions directly connected with the production of income on Line 2 (See §1375(b)(2) of the IRC). Deductions on Line 5 are from total operations for the year and include deductions from Form PTE, Part III as well as those reported separately on Schedule K. See §1375(b)(4) of the IRC for an exception regarding this line.
6. Enter the amount of Line 2 less Line 5. This is your Net Passive Income.
7. Enter the amount of Line 4 divided by the amount on Line 2.
8. Enter the amount of Line 6 multiplied by Line 7. This is your Excess Net Passive Income.
9. Enter taxable income as defined in §1.1374-1A(d) of the Treasury Regulations. Figure this income by completing Form 720, Part III, lines 1 through 17. Include the Form 720 computation with the worksheet computation you attach to Form PTE. You do not have to attach the schedules, etc., called for on Form 720. However, you may want to complete certain Form 720 schedules, such as Kentucky converted Schedule D, if you have capital gains or losses.
10. Enter the lesser of the amount from Line 8 or Line 9.
11. Enter 100%, or if taxable in Kentucky and taxable in another state, the apportionment factor from Schedule A (see Schedule A instructions).
12. Enter the amount on Line 10 multiplied by the percentage on Line 11.
13. Excess net passive income tax—enter 5% of Line 12. Enter here and on Form PTE, Part II, Line 1.

**Excess Net Passive Income Tax Worksheet  
(Attach this Worksheet to Form PTE)**

1. Enter gross income receipts for the tax year as defined in IRC §1362(d)(3)(B) .....
2. Enter passive investment income as defined in IRC §1362(d)(3)(C) .....
3. Enter 25% of line 1 (If line 2 is less than line 3, stop here. You are not liable for the tax.).....
4. Enter line 2 less line 3 (This is your excess passive investment income.) .....
5. Enter deduction directly connected with the production of income on line 2 (see instructions).....
6. Enter line 2 less line 5 (This is your net passive income.) .....
7. Enter line 4 divided by the amount on line 2 .....
8. Multiply line 6 by line 7 (This is your excess net passive income.) .....
9. Enter taxable income (see instructions).....
10. Enter the lesser of the amount on line 8 or line 9.....
11. Enter 100% or the apportionment factor from Schedule A (see Schedule A instructions).....
12. Multiply the amount on line 10 by the percentage on line 11 .....
13. Enter 5% of line 12 on this line and on Form PTE, Part II, line 1.....

**Instructions for Built-in Gains Tax Worksheet:**

1. Enter the amount that would be the taxable income of the corporation for the tax year if only recognized built-in gains (including any carryover of gain under §1374(d)(2)(B) of the IRC) and recognized built-in losses were taken into account.
2. Figure taxable income by completing Form 720, Part III, Lines 1 through 17. Follow the instructions for Form 720. Enter the amount from Form 720, Part III, Line 17 on Line 2 of the Built-in Gains Tax Worksheet.
3. Enter the lesser of the amount from Line 1 or Line 2. If for any year the amount on Line 1 exceeds the taxable amount on Line 2, the excess is treated as a recognized built-in gain in the succeeding tax year.
4. Enter the IRC §1374(b)(2) deduction. Generally, this is any net operating loss carryforward (to the extent of net capital gain included in recognized built-in-gain for the tax year) arising in tax years for which the corporation was a C corporation. See §1374(b)(2) of the IRC and §1.1374-5 of the Treasury Regulations.
5. Enter the amount of Line 3 less Line 4. If zero or less, enter zero here and on Line 8.
6. Enter 100% or the apportionment factor from the last C corporation return, Schedule A (see Schedule A instructions).
7. Enter the amount on Line 5 multiplied by the percentage on Line 6.
8. Multiply the amount on Line 7 by 5% and enter the amount on this line and on Form PTE, Part III, Line 2, and attach computation to Form PTE.

**Built-in Gains Tax Worksheet  
(Attach this Worksheet to Form PTE)**

1. Excess of recognized built-in gains over recognized built-in losses (see instructions).....
2. Taxable income (see instructions) .....
3. Net recognized built-in gains. Enter the lesser of line 1 or line 2 .....
4. IRC §1374(b)(2) deduction .....
5. Enter line 3 less line 4. If zero or less, enter zero here and on line 8 .....
6. Enter 100% or the apportionment factor from the last C corporation return, Schedule A (see Schedule A instructions).....
7. Multiply the amount on line 5 by the percentage on line 6.....
8. Enter 5% of line 7 on this line and on Form PTE, Part III, line 2.....

Schedule TCS is used by 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 the S corporation, partnership, or general partnership.

**Economic Development Tax Credits** – This section is completed only if a limited liability pass-through entity has been approved for one or more of the credits authorized by the: (1) Metropolitan College Consortium (MCC – KRS 141.381); (2) Kentucky Small Business Tax Credit Program (KSBTC – KRS 141.384); (3) Kentucky Selling Farmers Tax Credit (KSFTC – KRS 141.3841) or (4) Skills Training Investment Credit Act (STICA – KRS 154.12).

A limited liability pass-through entity must not enter income or LLET tax credits on Schedule TCS from:

- Kentucky Rural Economic Development Act (KREDA – KRS 154.22);
- Kentucky Industrial Development Act (KIDA – KRS 154.28);
- Kentucky Jobs Retention Agreement (KJRA – KRS 154.25);
- Kentucky Industrial Revitalization Act (KIRA – KRS 154.26);
- Kentucky Jobs Development Act (KJDA – KRS 154.24);
- Kentucky Business Investment Program (KBI – KRS 154.32);
- Kentucky Reinvestment Act (KRA – KRS 154.34);
- Incentives for Energy Independence Act (IEIA – KRS 154.27); or
- Farming Operation Networking Project (FON – KRS 141.412).

A limited liability pass-through entity must file Schedules KREDA-SP, KIDA-SP, KJRA-SP, KIRA-SP, KJDA-SP, KBI-SP, KRA-SP, IEIA-SP, or FON-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 must be attached to the tax return. The credit for either the STICA or MCC must 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, 2027. 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 KSBTC and KSFTC credit, a copy of the tax credit notification received from Kentucky Economic Development Finance Authority (KEDFA) reflecting the amount of credit awarded must be attached to the tax return. The credit for the KSBTC and KSFTC must 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 KSBTC and KSFTC 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).

**Farming Operation Networking Tax Credit**—A qualified farming operation which has a farm operation networking project approved by the Cabinet for Economic Development per KRS 141.410 to KRS 141.414 is allowed a credit against the taxes imposed by KRS 141.040 or KRS 141.020 and KRS 141.0401 attributable to the project per KRS 141.412. The annual tax credit is available for the first five (5) years that the farming operation is involved in the networking project. The annual tax credit is equal to the approved costs incurred by the qualified farming operation during the tax year and must not exceed the income, Kentucky gross profits, or Kentucky gross receipts of the qualified farming operation generated by or arising out of the qualified farming operation's participation in a networking project. Schedule FON must be attached to the tax return claiming the credit. **KRS 141.412**

**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 or KRS 141.040 and KRS 141.0401 or KRS 136.505 for qualified rehabilitation expenses on certified historic structures. Certification copies must be attached to the return claiming the credit. **KRS 171.3961 and KRS 171.397**

**Unemployment Tax Credit**—If a taxpayer 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 or 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 that 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, 2019, a taxpayer that 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 25 percent of the installed cost of

the recycling or composting equipment. The amount of the credit claimed cannot exceed 75 percent of the total of each tax liability for each taxable year. To qualify, the taxpayer must: (1) invest more than \$10,000,000; (2) have more than 400 full-time employees with an average hourly wage of more than 300% of the federal minimum wage; and (3) have plant and equipment costing at least \$500,000,000.

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 per KRS 154.20–250 to KRS 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 or 141.040, 141.0401, 136.320, 136.300, 136.310, 136.505, and 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 must not exceed 50 percent of the initial aggregate credit amount approved by the authority for the investment fund which is proportionally available to the investor. **Example:** *An investor with a 10 percent investment in a fund which has been approved for a total credit to all investors of \$400,000 is limited to \$20,000 maximum credit in any given year (\$400,000 x 10% x 50%).*

If the amount of credit that may be claimed in any tax year exceeds the tax liabilities, the excess credit may be carried forward, but the carryforward of any excess tax credit will 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, will 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**

**Qualified Research Facility Tax Credit**—A taxpayer is entitled to a credit against the taxes imposed by KRS 141.020 or KRS 141.040 and KRS 141.0401 of 5 percent of the qualified costs of constructing, 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 or 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 at 502-573-5114. 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.402**

**Voluntary Environmental Remediation Tax Credit**—The taxpayer must have an agreed order and be approved by the Energy and Environment Cabinet per KRS 224.1–514. 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 or KRS 141.040 and KRS 141.0401. For more information regarding credit for voluntary environmental remediation property, contact the Energy and Environment Cabinet at 502–564–6716. Schedule VERB must be attached to the tax return claiming this credit. **KRS 141.418**

**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 or 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 will 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**

**Clean Coal Incentive Tax Credit**—Effective for tax years ending on or after December 31, 2006, a nonrefundable, nontransferable credit against taxes imposed by KRS 136.120 or KRS 141.020 or KRS 141.040 and KRS 141.0401 will be allowed for a clean coal facility. Per 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 is \$2 per ton of eligible coal purchased that is used to generate electric power at a certified clean coal facility, except that no credit will 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 or 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 will 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 or 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 will 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**

**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, is entitled to a nonrefundable credit against taxes imposed by KRS 141.020 or KRS 141.040 and KRS 141.0401 in an amount equal to fifty percent of the qualified expenditures paid or incurred to maintain or improve railroads located in Kentucky, including roadbeds, bridges, and related structures, that are owned or leased as of January 1, 2008, by a Class II or Class III railroad.

The credit allowed must not exceed the product of \$3,500 multiplied by the sum of: (1) 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 (2) 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. Attach Schedule RR-I to the return when claiming this credit. **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 KRS 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 KRS 143A.020 or biomass resources is entitled to a nonrefundable tax credit against taxes imposed under KRS 141.040 and KRS 141.0401 equal to twenty-five percent of the expenditures paid or incurred by the corporation or railway company to expand or upgrade railroad track, including roadbeds, bridges, and related track structures, to accommodate the transport of fossil energy resources or biomass resources.

The credit amount approved for a calendar year for all taxpayers under KRS 141.386 is limited to \$1 million. If the total amount of approved credit exceeds \$1 million, the department will 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 must file Schedule RR-E by the fifteenth day of the first month following the close of the preceding calendar year. The department will 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, 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 KRS 141.040 and KRS 141.0401 and if not used in the year the tax credit is awarded, may be carried forward for a period not to exceed five years. The department will issue a credit certification (Schedule ENDOW) to a taxpayer upon receiving proof that the endowment gift was made to the approved community foundation per 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 must attach a copy of Schedule K-1, Form PTE to the partner's, member's, or shareholder's tax return each year to claim the tax credit. **NOTE:** This credit may limit charitable contribution deductions allowed under Section 170 of the IRC. See the IRC and federal regulations for additional information on any limitations. **KRS 141.438 and 103 KAR 15:195**

**New Markets Development Program Tax Credit**—A taxpayer that makes a qualified equity investment per KRS 141.432(7) in a qualified community development entity defined by KRS 141.432(6) is 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 is limited to \$10 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 is \$10 million, whether made by one or several qualified community development entities.

The amount of the credit will 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 141.432 to KRS 141.434**

**Food Donation Tax Credit**—For taxable years beginning on or after January 1, 2018, the tax credit was repealed. Any unused credit may be carried forward for up to four (4) years after the credit was claimed. See Schedule TCS, Part II, line 18 to claim this credit. **KRS 141.392**

**Distilled Spirits Tax Credit**—For taxable years beginning on or after January 1, 2015, a nonrefundable and nontransferable credit against the tax imposed by KRS 141.020 or KRS 141.040 and KRS 141.0401 is available to taxpayers who pay Kentucky property tax on distilled spirits.

The distilled spirits credit is equal to: 100 percent of the property tax assessed and timely paid for taxable years beginning on or after January 1, 2019.

The amount of the credit is contingent on the costs associated with the following capital improvements at the premises of the distiller: construction, replacement, or remodeling of warehouses or facilities; purchases of barrels and pallets used for the storage and aging of distilled spirits in maturing warehouses; acquisition, construction, or installation of equipment for the use in the manufacture, bottling, or shipment of distilled spirits; addition or replacement of access roads or parking facilities; and construction, replacement, or remodeling



of facilities to market or promote tourism, including but not limited to a visitor's center. Attach Schedule DS to the return claiming the credit. **KRS 141.389**

**Film Industry Tax Credit**—For applications approved on or after April 27, 2018, a nonrefundable and nontransferable credit against the taxes imposed by KRS 141.020 or KRS 141.040 and KRS 141.0401 is available for taxpayers who have received notification from the film office that the approved company has satisfied all requirements of KRS 148.542 to KRS 148.546. Attach film office certification to the return claiming the credit. **KRS 141.383**

**Inventory Tax Credit**—For taxable years beginning on or after January 1, 2018, a nonrefundable and nontransferable tax credit is allowed against the taxes imposed by KRS 141.020 or KRS 141.040 and KRS 141.0401 for ad valorem (property) taxes timely paid on inventory. This credit is phased in as follows: 25% in 2018; 50% in 2019; 75% in 2020; 100% in 2021 and thereafter. Attach Schedule INV to the return claiming the credit. **KRS 141.408**

**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 their tangible personal property subject to ad valorem taxation. The Tangible Personal Property Tax Return, Revenue Form 62A500, and instructions can be obtained from your local county property valuation administrator’s office or the Office of Property Valuation. You may also go to [www.revenue.ky.gov](http://www.revenue.ky.gov) to download these forms. A separate form must be filed for each location in Kentucky where you have tangible personal property. Do not attach a copy of Form 62A500 to Form PTE.

**Kentucky State Treasury—Unclaimed Property**

**Individuals**

The Kentucky State Treasury may be holding unclaimed property for you or your family. The Treasury holds hundreds of millions of dollars from bank accounts, payroll checks, life insurance, utility deposits, and other types of property that have been unclaimed by the owners. Please visit [www.treasury.ky.gov](http://www.treasury.ky.gov) or [www.missingmoney.com](http://www.missingmoney.com) for more information on how to locate and claim any funds that may belong to you.

**Businesses**

Kentucky businesses are required to comply with the Kentucky Revised Uniform Unclaimed Property Act, codified as KRS Chapter 393A. If you have uncashed vendor checks, payroll checks, unclaimed customer deposits or refunds, or other types of property belonging to third-parties, you may be required to turn the property over to the Kentucky State Treasury. Please review KRS Chapter 393A, or visit [www.treasury.ky.gov](http://www.treasury.ky.gov) for more information.

**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.*

**TAXPAYER ASSISTANCE**

*Forms:*

Operations and Support Services Branches  
501 High Street, Station 23B  
Frankfort, KY 40601  
502-564-3658

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

*Information:*

Pass-Through Entity Branch  
Department of Revenue  
501 High Street, Station 52  
Frankfort, KY 40601-2103  
502-564-8139

*Mailing/Payment:*

Mail the return **with payment to:**

Kentucky Department of Revenue, Frankfort, KY 40620-0021.

Make the check(s) payable to the **Kentucky State Treasurer.**

Mail returns **with no tax due or refund** requests to:

Kentucky Department of Revenue, P. O. Box 856905, Louisville, KY 40285-6905.

**KENTUCKY TAXPAYER SERVICE CENTERS**

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

**Ashland**, 1539 Greenup Avenue, 41101-7695  
606-920-2037

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

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

**Frankfort**, 501 High Street, 40601-2103  
502-564-5930

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

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

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

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

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

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



SEPTEMBER 2020

# 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 a Notice of Tax Due or the denial of a refund. 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 Notice of Tax Due, a reduction or denial of a refund, or a denial of a request for additional time to file a supporting statement; and
- ✓ tax laws and changes in tax laws so that you can comply with the law.

### **Protest and Appeal**

You have the right to file a protest with the DOR if you disagree with a Notice of Tax Due, a reduction or denial of a refund, or a denial of a request for additional time to file a supporting statement. If you file a timely protest, you have a right to a conference to discuss the matter. If you are not satisfied with the Department's final ruling following your protest, you may appeal the final ruling to the Kentucky Board of Tax Appeals, pursuant to KRS 131.110(5) and KRS 49.220 et. seq. (See reverse for procedure to file a protest.)

### **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 will be required to give your representative a power of attorney before the DOR can discuss tax matters with your authorized agent. See Form 20A100.

### **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 Claims Commission 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 and 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;
- ✓ 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; and
- ✓ notify you by certified mail 20 days prior to submitting your name to the relevant agency for the revocation or denial of professional license, driver's license, or motor vehicle registration.

**PROTEST AND APPEAL PROCEDURE**

**Protest**

If you receive a Notice of Tax Due, or if the DOR notifies you that a tax refund has been reduced or denied, or the DOR denies your request for additional time to file a supporting statement, you have the right to protest. To do so:

- ✓ submit a written protest within 60 days from the original notice date (or 45 days if the original notice date is prior to 07/01/2018); notice of refund reduction or denial, or denial of a request for additional time to file a supporting statement;
- ✓ 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 Tax Due or refund denial to support that your 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, 501 High Street, Station 1, Frankfort, Kentucky 40601.

**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**  
1539 Greenup Avenue, 41101-7695  
606-920-2037

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

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

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

**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

\* \* \* \* \*

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 131.041-131.083. Additional rights and responsibilities are provided for in KRS 131.020, 131.110, 131.170, 131.1817, 131.183, 131.190, 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, age, religion, disability, sexual orientation, gender identity, veteran status, genetic information or ancestry in employment or the provision of services.*

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