

KRS 141.410 to 141.414

**DRAFT**  
6/20/18

# FON

- ◆ **Only use this package if you have received approval for the FON credit per KRS 141.410 to 141.414 by the Cabinet for Economic Development.**
- ◆ **See instructions.**
- ◆ **Attach to form 720, 720S, 765, 765-GP, or 725.**

**Purpose of Package** – Use this package to report FON tax incentives for which your business entity has been approved per KRS 141.410 to 141.414. You must have received preliminary or final approval in accordance with KRS 141.410 to determine the credit allowed. Schedule FON-T is used by the company which has a Farming Operation Networking (FON) project to maintain a record of the approved costs and tax credits.

**General Instructions** – Only include one incentive project per Package FON. If your business entity files a form 720 with the state of Kentucky, you must complete Schedule FON (Page 3) and Schedule FON-T (Page 7). If your business entity files form 720S, 765, 765–GP, or 725, you must complete Schedule FON-SP (Page 5) and Schedule FON-T (Page 7).



**Taxable Year Ending**  
\_\_\_\_/\_\_\_\_  
Mo. Yr.

Name of Corporation	Federal Identification Number ____-____	Kentucky Corporation/LLET Account Number _____
Location of Project  City _____ County _____	Activation Date of FON Incentive Agreement  ____/____/____ Mo. Day Yr.	Farming Operation Networking Project Number

**PART I—Computation of LLET Excluding FON Project**

1 LLET from Form 720, Part I, line 1 .....	1	00
2 LLET on FON project (see instructions) .....	2	00
3 LLET excluding LLET on FON project (line 1 less line 2).....	3	00

**PART II—Computation of Taxable Net Income Excluding Net Income from FON Project and FON Tax Credit**

**Section A—Computation of Corporation Tax**

1 Enter income tax from Form 720, Part II, line 1.....	1	00
2 LLET of corporation (Part I, line 1).....	2	00
3 LLET credit allowed (line 2 less \$175, but not more than line 1).....	3	00
4 Total corporation tax (lines 1 and 2 less line 3).....	4	00

**Section B—Computation of Tax Excluding FON Project**

1 Enter taxable net income from Form 720, Part III, line 22 .....	1	00
2 Enter net income from FON project; if loss, enter -0-.....	2	00
3 Taxable net income excluding net income from FON project (line 1 less line 2). If line 2 is greater than line 1, enter -0- .....	3	00
4 Income tax liability excluding FON project (line 3 multiplied by the tax rate of 5%) .....	4	00
5 LLET excluding LLET on FON project (Part I, line 3) .....	5	00
6 Enter LLET from line 5 less \$175, but not more than line 4 .....	6	00
7 Total tax excluding FON project (lines 4 and 5 less line 6) .....	7	00
8 Total tax attributable to FON project (Section A, line 4 less Section B, line 7) Continue to Part III and enter this amount on Part III, line 1 .....	8	00

**PART III—Limitation**

1 Enter tax liability attributable to FON project from Part II, Section B, line 8 .....	1	00
2 Enter limitation from Schedule FON-T, Column D .....	2	00
3 Allowable FON tax credit (lesser of line 1 or line 2) .....	3	00

Enter allowable credit on Schedule TCS, Part II, Column E and Column F

The FON tax credit is applied against 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; however, for tracking purposes, the maximum amount of credit used against either tax is the amount that is used for the tax year.

**PURPOSE OF SCHEDULE**—This schedule is used by a corporation to determine the credit allowed against the Kentucky corporation income tax and LLET 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

## GENERAL INSTRUCTIONS

### Part I—Computation of LLET Excluding FON Project

**Line 2**—Use Schedule L, Line 1(b) of Form 720 to compute the LLET of the FON project using only the Kentucky gross receipts and Kentucky gross profits of the project. If approved for multiple projects, attach a breakdown of each project's LLET computation.

If the corporation has operations other than the FON project, it must attach schedules reflecting the computation of Kentucky gross profits and Kentucky gross receipts from the FON project per KRS 141.414(4)(b)\*\* or KRS 141.414(5)(b).\*\*\*

### Part II—Computation of Taxable Net Income Excluding Net Income from FON Project and FON Tax Credit

#### Section B

**Line 2**—Enter net income for the FON project. If the corporation's only operation in Kentucky is the FON project, the amount entered on Line 1 must also be entered on Line 2. If the corporation has operations other than the FON project, it must attach schedules reflecting the computation of the net income from the FON project per KRS 141.414(4)(a)\* or KRS 141.414(5)(a).\*\*\*

See form for computation.

### Part III—Limitation

Calculate the FON tax credit based on the corporation's tax liability, tax liability attributable to the FON project, and the credit limitation from Schedule FON-T. Enter credit on Schedule TCS, Part II, Column E and Column F.

A corporation with more than one farming operation networking project must separately compute the tax credit derived from each project. Complete the applicable schedules for each project and attach a copy of the certification(s) from the Cabinet for Economic Development.

**Alternative Methods**—Per KRS 141.414(6), if the approved company can show that the nature of the operations and activities of the approved company are such that it is not practical to use separate accounting to determine net income, Kentucky gross receipts, or Kentucky gross profits from the operation where the project is located, the approved company must determine net income, Kentucky gross receipts, or Kentucky gross profits attributable to the project using an alternative method approved by the Department of Revenue. Thus, if any method other than separate accounting is used, **a copy of the letter from the Department of Revenue approving the alternative method must be attached to this schedule.**

- \* Per KRS 141.414(4)(a), if the project is a separate operation, net income attributable to the project shall be determined by the separate accounting method.
- \*\* Per KRS 141.414(4)(b), if the project is a separate operation, Kentucky gross receipts, or Kentucky gross profits attributable to the project shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the operation.
- \*\*\* Per KRS 141.414(5)(a), if the FON project is an expansion to a previously existing operation, net income attributable to the entire operation shall be determined under the separate accounting method and the net income attributable to the FON project shall be determined by apportioning the separate accounting net income of the entire operation to the FON project income using a formula approved by the Department of Revenue. **A copy of the letter from the Department of Revenue approving the percentage must be attached to this schedule.**
- \*\*\*\* Per KRS 141.414(5)(b), if the FON project is an expansion to a previously existing operation, Kentucky gross receipts, or Kentucky gross profits attributable to the entire operation shall be determined under the separate accounting method and the Kentucky gross receipts, or Kentucky gross profits attributable to the FON project shall be determined by apportioning the separate accounting Kentucky gross receipts or Kentucky gross profits of the entire operation to the FON project Kentucky gross receipts or Kentucky gross profits. **A copy of the letter from the Department of Revenue approving the percentage must be attached to this schedule.**



**Taxable Year Ending**

\_\_\_\_/\_\_\_\_  
Mo. Yr.

Name of Pass-through Entity	Federal Identification Number  _____	Kentucky Corporation/LLET Account Number  _____
Location of Project  City _____ County _____	Activation Date of FON Incentive Agreement  ____/____/____ Mo. Day Yr.	Farming Operation Networking Project Number

**PART I—Computation of FON Tax Credit and Tax Due**

1 Kentucky taxable income on FON project (see instructions).....	1		00
2 Net operating loss deduction on FON project .....	2	(            )	00
3 Kentucky taxable income on FON project after net operating loss deduction (line 1 less line 2).....	3		00
4 Income tax liability of FON project (line 3 multiplied by the tax rate of 5%).....	4		00
5 LLET on FON project (see instructions). <b>Not applicable for Form 765-GP</b> .....	5		00
6 LLET credit allowed (line 5 less \$175, but not more than line 4). <b>Not applicable for Form 765-GP</b> .....	6		00
7 Total tax on FON project (lines 4 and 5 less line 6).....	7		00
8 Limitation (Column D from Schedule FON-T) .....	8		00
9 Enter the lesser of line 7 or line 8 as the FON tax credit.....	9		00
10 If line 7 is larger than line 9, enter difference here as a <b>liability</b> of the pass-through entity. (Any pass-through entity reflecting a tax liability, complete Tax Payment Summary below and remit payment.).....	10		00

**PART II—Certification**

I, the undersigned, declare under the penalties of perjury, that I have examined this schedule, including all accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete.

➤ \_\_\_\_\_  
Signature of Shareholder, Partner, or Member Date

**TAX PAYMENT SUMMARY (Make check payable to Kentucky State Treasurer.)**

Tax \_\_\_\_\_ Interest \_\_\_\_\_ Penalty \_\_\_\_\_ **TOTAL** \_\_\_\_\_

**PURPOSE OF SCHEDULE**—This schedule is used by a pass-through entity to determine the credit allowed against the Kentucky income tax and LLET 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.

KRS 141.414(3) provides that the net income subject to tax and the tax credit determined under KRS 141.414(2) must be excluded in determining each partner's, member's, shareholder's, or beneficiary's distributive share of net income or credit of the pass-through entity or trust.

Pass-through entities should first complete Form 720S, 765, or 765-GP to determine net income (loss), deductions, etc., from the entire operations of the pass-through entity. The pass-through entity should then complete Schedule FON-SP to determine the FON tax credit, if any, from the FON project. A pass-through entity is subject to tax per KRS 141.020 and KRS 141.0401 on the net income and the Kentucky gross receipts or Kentucky gross profits from the FON project and the FON credit is applied against the tax of the FON project. Consequently, the pass-through entity must use Form 720S(K), Form 765(K), or Form 765-GP(K) to exclude the net income from the FON project from the partners', members', or shareholders' distributive share income, and Schedule L, Line 1(b) of Form 720S, Form 765, or Form 725 to exclude Kentucky gross receipts or Kentucky gross profits of the FON project from LLET at the entity level.

**Multiple Projects**—A pass-through entity with multiple farming operation networking projects must complete the applicable Schedule FON-SP to determine the credit and net tax liability, if any, for each project.

**Line 1**—If the pass-through entity's only operation is the FON project, the amount entered on Line 1 is the net income (loss) from Form 720S, 765, or 765-GP. If the pass-through entity has operations other than the FON project, a schedule must be attached reflecting the computation of the net income (loss) from the FON project in accordance with the following instructions, and such amount entered on Line 1.

**Separate Operation**—Per KRS 141.414(4), if the project is a separate operation, net income, Kentucky gross receipts, and Kentucky gross profits attributable to the project must be determined by a separate accounting method.

**Expansion of Existing Operation**—Per KRS 141.414(5), if the FON project is an expansion to a previously existing operation, the net income, Kentucky gross receipts, and Kentucky gross profits must be determined under a separate accounting method reflecting the entire operation, and the net income, Kentucky gross receipts, and Kentucky gross profits must be determined by apportioning the net income,

Kentucky gross receipts, and Kentucky gross profits of the entire operation to the farming operation networking project by a formula approved by the Department of Revenue. **A copy of the letter from the Department of Revenue approving the percentage must be attached to the schedule.**

**Alternative Methods**—Per KRS 141.414(6), if the approved company can show that the nature of the operations and activities of the approved company are such that it is not practical to use a separate accounting method to determine the net income, Kentucky gross receipts, and Kentucky gross profits from the operation where the economic development project is located, the approved company must use an alternative method approved by the Department of Revenue. **A copy of the letter from the Department of Revenue approving the alternative method must be attached to this schedule.**

**Separate Accounting**—If the farming operation networking project is a separate operation, net income must reflect only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the operation and overhead expenses apportioned to the operation; and Kentucky gross receipts or Kentucky gross profits must reflect only Kentucky gross receipts or Kentucky gross profits directly attributable to the operation.

If the farming operation networking project is an expansion to a previously existing operation, net income of the entire operation must reflect only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the operation and overhead expenses apportioned to the operation; and Kentucky gross receipts and Kentucky gross profits must reflect only Kentucky gross receipts and Kentucky gross profits directly attributable to the operation. Net income, Kentucky gross receipts, and Kentucky gross profits of the entire operation attributable to the economic development project must be determined by apportioning the net income, Kentucky gross receipts, and Kentucky gross profits by a formula approved by the Department of Revenue.

**Line 2**—Enter the net operating loss from the FON project, if any, being carried forward from previous years.

**Note:** Just as the income from a FON project does not flow through to partners, members, or shareholders, neither do the losses. The project's net operating loss from prior years must be subtracted from the project income before calculating the FON credit.

**General Partnership**—Lines 5 and 6 of this schedule should not be completed by a general partnership as a general partnership is not subject to LLET.

**Line 5**—Use Schedule L, Line 1(b) of Form 720S, Form 765, or Form 725 to compute the LLET of the FON project using only the Kentucky gross receipts and Kentucky gross profits of the project. If approved for multiple projects, attach a breakdown of each project's LLET computation.



**PURPOSE OF SCHEDULE**—This schedule is used to maintain a record of approved costs and the tax credits taken for the duration of the project. This information is necessary for the company to determine the limitation of the tax credit for each taxable year of the agreement and to allow the Kentucky Department of Revenue to verify that the tax credit carryover has been properly determined.

KRS 141.412 provides that any tax credit not used in the taxable year in which it becomes available may be carried forward to the next succeeding five (5) taxable years until the tax credit has been fully used. The aggregate tax credit used in any taxable year 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 in that taxable year.

#### GENERAL INSTRUCTIONS

“Approved costs” means costs incurred during the taxable year by a qualified farming operation for training and improving skills of managers and employees involved in a networking project per KRS 141.410(1).

“Qualified farming operation” means an individual, sole proprietorship, partnership, joint venture, trust, unincorporated organization, association, corporation, or institution, engaged in farming in Kentucky that provides raw materials for food-producing facilities in Kentucky, and that purchases new buildings or equipment, or that incurs training expenses, to support its participation in a networking project.

KRS 141.414(3) provides that the net income subject to tax and the tax credit determined under KRS 141.414(2) must be excluded in determining each partner's, member's, shareholder's, or beneficiary's distributive share of net income or credit of the pass-through entity or trust.

A single Schedule FON-T, Tracking Schedule for a FON Project, must be maintained for the duration

of each FON project. Beginning with the first taxable year of the FON incentive agreement, complete Columns A through E using a separate line for each year of the agreement. The company must attach a copy of this schedule updated with current year information to the Schedule FON or Schedule FON-SP which is filed with the Kentucky tax return.

All tax credits are entered on Schedule TCS, Tax Credit Summary Schedule. The total tax credits calculated may exceed the amount that can be used. Credits must be claimed in the order prescribed by KRS 141.0205. Total credits claimed cannot reduce the LLET below the \$175 minimum nor the income tax liability below zero.

#### SPECIFIC INSTRUCTIONS

**Column A**—Enter on each line the ending date (month, day, and year) of the taxable year for which the information in Columns B through E is entered.

**Column B**—This column will be blank for the first taxable year of the agreement. For each year thereafter, if the amount entered in Column D for the prior year exceeds the amount entered in Column E for the prior year, enter the difference. If the amount entered in Column E for the prior year equals the amount entered in Column D for the prior year, enter zero (-0-).

**Column C**—Enter the total amount of approved costs for the taxable year.

**Column D**—Enter the result of adding the amounts entered in Columns B and C. Also, enter this amount on Schedule FON, Part III, Line 2 or Schedule FON-SP, Part I, Line 8, whichever is applicable.

**Column E**—The tax credit calculated for each tax can be different; however, for tracking purposes, the maximum amount used against either tax is recorded as the amount claimed. Enter the greater of Column E or Column F from Schedule TCS for this project.