

## INSTRUCTIONS



2007

## KENTUCKY PARTNERSHIP INCOME AND LLET RETURN

**The Department of Revenue will not be printing  
Partnership and LLET packets and labels in 2007.**

## PURPOSE OF INSTRUCTIONS

These instructions have been designed for Kentucky partnerships that afford their partners or members, through function of the laws of this state or laws recognized by this state, protection from general liability for actions of the entity. These partnerships are required by law to file a Kentucky Partnership Income and LLET Return (Form 765). Forms and schedules are available from the Department of Revenue or Taxpayer Service Centers (see page 16).

Refer to the chart on page 4 to determine what tax form your business needs to file.

## HOW TO OBTAIN ADDITIONAL FORMS

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

## KENTUCKY TAX LAW CHANGES

## 2005 Kentucky General Assembly

**Top Corporation Income Tax Rate Reduction**—For tax years beginning on or after January 1, 2007, the top corporation income tax rate drops from 7 percent to 6 percent.

## 2006 Special Session Kentucky General Assembly

On June 28, 2006, the Kentucky General Assembly enacted House Bill 1 (HB 1) during an unprecedented five-day Special Session. The bill was signed into law by Gov. Fletcher the same day. The following is a summary of the main provisions of HB 1:

**HB 1—Provisions effective for tax years beginning on or after January 1, 2007**

**Restoration of Federal Pass-through Entity Treatment**—All pass-through entities will be treated the same for Kentucky income tax purposes as they are treated for federal income tax purposes, except for differences between Kentucky law and federal law. LLCs, S corporations, limited liability partnerships and limited partnerships will no longer be subject to the corporation income tax. The income will be passed through and taxed at the ownership level.

HB 1 requires withholding of the income tax due from nonresident individual owners of pass-through entities and from corporate owners of pass-through entities if the corporate owner's only business connection to Kentucky is the ownership interest in a pass-through entity doing business here.

**New Limited Liability Entity Tax Replaces AMC**—A limited liability entity tax (LLET) is imposed on every corporation and limited liability pass-through entity doing business in Kentucky. A minimum of \$175 will be due from those entities subject to this new tax.

Except for the \$175 minimum, the LLET will not apply if the entities' gross receipts or gross profits from all sources are \$3 million or less.

Except for the \$175 minimum, the LLET will be partially reduced for taxpayers with gross receipts or gross profits from all sources in excess of \$3 million, but less than \$6 million.

**Entities exempted, pursuant to KRS 141.0401(6), from the LLET are:**

1. Financial institutions, as defined in KRS 136.500, except banker's banks organized under KRS 287.135 or 286.3-135;
2. Savings and loan associations organized under the laws of this state and under the laws of the U.S. and making loans to members only;
3. Banks for cooperatives;
4. Production credit associations;
5. Insurance companies, including farmers' or other mutual hail, cyclone, windstorm or fire insurance companies, insurers and reciprocal underwriters;
6. Corporations or other entities exempt under Section 501 of the Internal Revenue Code (IRC);
7. Religious, educational, charitable or like corporations not organized or conducted for pecuniary profit;
8. Corporations whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, provided that: (a) the

property consists of the final printed product, or copy from which the printed product is produced; and (b) the corporation has no individuals receiving compensation in this state as provided in KRS 141.120(8)(b);

9. Public service corporations subject to tax under KRS 136.120;
10. Open-end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940;
11. Any property or facility that has been certified as a fluidized bed energy production facility as defined in KRS 211.390;
12. An alcohol production facility as defined in KRS 247.910;
13. Real estate investment trusts as defined in Section 856 of the IRC;
14. Regulated investment companies as defined in Section 851 of the IRC;
15. Real estate mortgage investment conduits as defined in Section 860D of the IRC;
16. Personal service corporations as defined in Section 269A(b)(1) of the IRC;
17. Cooperatives described in Sections 521 and 1381 of the IRC, including farmers' agricultural and other cooperatives organized or recognized under KRS Chapter 272, advertising cooperatives, purchasing cooperatives, homeowners associations including those described in Section 528 of the IRC, political organizations as defined in Section 527 of the IRC, and rural electric and rural telephone cooperatives; or,
18. Publicly traded partnerships as defined by Section 7704(b) of the IRC that are treated as partnerships for federal tax purposes under Section 7704(c) of the IRC or their publicly traded partnership affiliates. "Publicly traded partnership affiliates" shall include any LLC or limited partnership for which at least 80 percent of the LLC member interests or limited partner interests are owned directly or indirectly by the publicly traded partnership.

#### **New Limited Liability Entity Tax Credit Against Income Tax—**

A corporation is allowed an LLET credit against the income tax imposed by KRS 141.040 equal to the LLET computed on its gross receipts or gross profits as provided by KRS 141.0401(2)(c), after the LLET is reduced by the minimum tax of \$175 and by any other credits for which the corporation may be allowed.

A corporation that is a partner or member of a limited liability pass-through entity is allowed an LLET credit against the income tax imposed by KRS 141.040 equal to the corporation's proportionate share of LLET computed on the gross receipts or gross profits of the limited liability pass-through entity as provided by KRS 141.0401(2)(c), after the LLET is reduced by the minimum tax of \$175 and by other tax credits for which the limited liability pass-through entity may be allowed. The credit allowed a corporation that is a partner or member of a limited liability pass-through entity against income tax shall be applied only to income tax assessed on the corporation's proportionate share of distributive income from the limited liability pass-through entity as provided by KRS 141.0401(3)(b). Any remaining LLET credit shall be disallowed and shall not be carried forward to the next year.

An individual that is a partner, member, or shareholder of a limited liability pass-through entity is allowed an LLET credit against the income tax imposed by KRS 141.020 equal to the individual's proportionate share of LLET computed on the gross receipts or gross profits of the limited liability pass-through entity as provided by KRS 141.0401(2), after the LLET is reduced by the minimum tax of \$175 and by other tax credits for which the limited liability pass-through entity may be allowed. The credit allowed an individual that is a partner, member, or shareholder of a limited liability pass-through entity against income tax shall be applied only to income tax assessed on the individual's proportionate share of distributive income from the limited liability pass-through entity as provided by KRS 141.0401(3)(b). Any remaining LLET credit shall be disallowed

and shall not be carried forward to the next year.

**Other Credits Against the LLET**—The nonrefundable credits, e.g., economic development, recycling, biodiesel, etc. are applied against the LLET to arrive at the LLET liability. **KRS 141.0205(5)**

**Apportionment**—A multistate pass-through entity that is doing business within and without Kentucky will pass through its proportionate share of its receipts, property and payroll to its corporation ownership to be included in the corporation's apportionment factor. A general partnership formed after January 1, 2006 that is doing business within and without Kentucky will pass through its proportionate share of receipts, property and payroll to its corporation ownership to be included in the corporation's apportionment factor.

**Homeowners Associations**—Any homeowners association that is required to file a federal income tax return on Form 1120H is required to file a Kentucky corporation income tax return on Form 720. That statement does not reflect a law change, but rather a continuation of the Department of Revenue's (DOR) long-standing interpretation of Kentucky's corporation income tax law. KRS 141.010(14)(c) defines taxable net income in the case of a homeowners association. If no income is taxable on the federal Form 1120H, no income is taxable on the Kentucky return.

Homeowners associations will be exempt from the LLET, including the \$175 minimum tax for taxable years beginning on or after January 1, 2007.

## **2007 Kentucky General Assembly**

**Business Entities (Effective June 26, 2007)**—Amends and defines business entities and updates KRS Chapter 271B to reflect the provisions of the Model Business Corporation Act. The provisions will provide for more consistency among business corporations, nonprofit corporations, cooperatives, associations, partnerships, limited partnerships, limited liability companies and business trusts. **(HB 334)**

**Electronic Levy of Delinquent Taxes (Effective June 26, 2007)**—Requires that the financial institution match system implemented by the DOR for the seizing of financial assets of delinquent taxpayers and debtors not be implemented unless and until the department is prepared to implement the system in 90 percent of all financial institutions within a period of no longer than 18 months from the effective date of this act. The bill also provides that financial institutions may implement a data match sooner. The bill amends KRS 131.990 to apply fines for failure to comply within 90 days of notification by the DOR and to require the financial institution to forfeit its license to do business in the commonwealth for failure or refusal to comply within 120 days of notification by the DOR. The bill also amends KRS 205.990 to apply fines for failure to comply with KRS 205.772 and applicable administrative regulations if the financial institution has not complied within 90 days of the notification by the Cabinet for Families and Children. **(HB 443)**

**Internal Revenue Code Reference Date (Effective for Tax Years Beginning on or After January 1, 2007)**—Amends KRS 141.010(3) to update the Internal Revenue Code (IRC) reference date for individual and corporation income tax purposes to December 31, 2006. The depreciation and section 179 expense deductions for properties placed in service after September 10, 2001 will still be computed under the IRC in effect on December 31, 2001.

The bill also amends KRS 67.750 to update the reference date for the IRC for local governments to December 31, 2006.

In addition, the bill amends KRS 141.010(13) to disallow any dividend-paid deduction of a captive real estate investment trust

when computing the taxable net income of a corporation. **(HB 258)**

**Withdrawal of Commonwealth's Consent to Suits (Effective March 19, 2007)**—Withdraws the commonwealth's consent to suits attempting to recover alleged tax overpayments generated by the use of *unitary* corporate income tax returns. The bill also prohibits withdrawals from the State Treasury to pay these claims. The purpose of the legislation is to end litigation and the commonwealth's exposure resulting from a 1994 court decision which created a tax loophole for certain corporations. **(HB 316)**

## **Economic Development Incentive Programs**

**Economic Development Project (Effective June 26, 2007)**—Amends KRS 154.22-010(10) and KRS 154.28-010(11) to expand and define economic development project to include certain leased facilities. Such economic development projects utilizing leased facilities will be eligible only for the aggregate assessments pursuant to KRS 154.22-070 or KRS 154.28-110 withheld by the approved company each year and will not be eligible for credit against Kentucky income tax and LLET. **(HB 462)**

**Economic Development Project Adjoining Regional Postsecondary Education Center (Effective March 16, 2007)**—Expands the Kentucky Jobs Development Act by amending KRS 154.24-090(4) to provide that if an eligible company receives approval from the Kentucky Economic Development Finance Authority before July 1, 2008, and locates an economic development project on property that adjoins one of the five regional postsecondary education centers operated and occupied in cooperation with the Kentucky Community and Technical College System, the eligible company may alternatively satisfy the wage requirements. Ninety percent of the company's employees must receive base hourly wages and benefits equal to or greater than 200 percent of the federal minimum wage and the company must seek to provide meaningful employment opportunities for nontraditional students enrolled at a regional postsecondary education center. **(HB 468)**

**Economic Development Incentive Program-Cities of the First Class (Effective March 23, 2007)**—Creates new KRS Chapter 154.25 to establish an economic development incentive program which would provide tax credits and wage assessment fees to eligible companies. An eligible company means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust or any other entity designated by the United States Department of Commerce, United States Census Bureau North American Industry Classification System code 336211, 336111, 336112 or 336120 that is within the jurisdiction of a consolidated local government containing a city of the first class, employs a

minimum of 1,000 full-time persons engaged in manufacturing, has been operating within the commonwealth on a continuous basis for at least five years preceding the request for approval by the Kentucky Economic Development Finance Authority of the project which meets the standards set forth in the act, and that has been previously approved for economic development incentives from the commonwealth related to one or more of its facilities. **(HB 536)**

**Tax Increment Financing and Urban Redevelopment (Effective March 23, 2007)**—Provides that any city or county government may establish a local development area to encourage reinvestment in and development and reuse of areas of the city or county as provided in the act. Any taxing authority may, in addition to any other pledge permitted by law to secure its obligations, pledge up to 100 percent of the incremental local tax revenues (real property and occupational taxes) generated in the development area or local development area or from a project within the development area or local development area. In addition, any city, county or agency with bonding authority may issue increment bonds and may pledge incremental revenues to the payment of the incremental bonds. Certain projects within the development areas shall be eligible for participation by the commonwealth, if such projects meet the requirements for commonwealth participation. The measure also creates a State Tax Increment Financing Commission which offers three tax increment participation programs: (1) Participation Program for Real Property Ad Valorem Tax Revenues, (2) Signature Project Program and (3) Mixed Use Redevelopment in Blighted Urban Areas. State tax revenues received from (a) real property taxes, (b) individual income taxes, (c) corporate income taxes, (d) limited liability entity taxes or (e) sales taxes may be used as funding sources for the designated and approved projects provided such taxes were not previously committed to another development project within the same development area. The state tax revenues that can be committed are further limited by the requirements of the tax increment participation programs. The bill establishes the Division of Tax Increment Financing within the DOR to analyze and assist in implementing proposed state tax increment financing projects and serve as the record keeping unit for all state tax increment financing projects. **(HB 549)**

**Economic Revitalization Project (Effective March 23, 2007)**—Amends KRS 154.26-010 and KRS 154.26-080 to include in the definition of an economic revitalization project a closed facility that resumes operations. Also amends the definition of eligible company to reduce the requirement on the number of tons of coal mined from an economic revitalization project facility from four million to three million tons. **(HB 69)**

**2007 Second Extraordinary Session**—KRS 141.422 was amended to permit producers of renewable diesel to be entitled to the nonrefundable biodiesel tax credit and subject to the same requirements provided in KRS 141.423. **(HB 1)**

FILING FORM GUIDE			
Ownership	Kentucky Form and Tax		
	Form Required	Corporation Income Tax	LLET
1. C corporation	720	Yes	Yes
2. C corporation (consolidated group as provided by KRS 141.200(4))	720	Yes	Yes
3. C corporation (nexus consolidated group as provided by KRS 141.200 (9) to (14))	720	Yes	Yes
4. Publicly traded partnership (taxed as a corporation for federal income tax purposes)	720	Yes	Yes
5. S corporation	720S	Yes *	Yes
6. Single member limited liability company whose single member is an individual	725	No	Yes
7. Limited liability company (two or more members)	765	No	Yes
8. Limited partnership	765	No	Yes
9. Limited liability partnership	765	No	Yes
10. General partnership	765-GP	No	No
11. Publicly traded partnership (taxed as a partnership for federal income tax purposes)	765-GP	No	No
* If the S corporation has built-in gains, passive investment income or installments of tax on the recapture of LIFO benefits as provided by KRS 141.040(14).			

## IMPORTANT

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

**Depreciation, Section 179 Deduction and Gains/Losses From Disposition of Assets**—For taxable years beginning before January 1, 2002, Kentucky depreciation and Section 179 deduction are determined in accordance with the Internal Revenue Code (IRC) in effect on December 31, 1999, and for taxable years beginning after December 31, 2001, Kentucky depreciation and Section 179 deduction are determined in accordance with the IRC in effect on December 31, 2001. For calendar year 2006 returns and fiscal year returns that begin in 2006, any partnership income taxpayer that elects any of the following will have a different depreciation or Section 179 expense deduction for Kentucky purposes than for federal purposes:

- 30 percent bonus depreciation allowance;
- 50 percent bonus depreciation allowance;
- additional Section 179 deduction for New York Liberty Zone Property;
- additional depreciation and Section 179 deduction for Gulf Opportunity Zone Property; or,
- increased Section 179 deduction from \$25,000 to \$125,000.

If any of the above federal/Kentucky differences exist, the differences will continue through the life of the assets. There will be recapture and basis differences for Kentucky and federal income tax purposes until the assets are sold or fully depreciated.

**Important:** If the partnership has not taken the 30 percent special depreciation allowance, the 50 percent special depreciation allowance, the additional Section 179 deduction for New York Liberty Zone Property, or the increased Section 179 deduction for federal income tax purposes on any assets for which a depreciation deduction is being claimed for the taxable year, then no adjustment will be needed for Kentucky income tax purposes. **If federal Form 4562 is required to be filed for federal income tax purposes, a copy must be submitted with Form 765 to verify that no adjustments are required.**

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

1. The amount from Line 16a of the federal Form 1065 must be included on page 1, Part I-Ordinary Income (Loss) Computation, Line 3, Form 765. **If federal Form 4562 is required to be filed for federal income tax purposes, a copy must be attached to Form 765.**
2. Convert federal Form 4562 to a Kentucky form by entering **Kentucky** at the top center of the form above Depreciation and Amortization. Compute Kentucky depreciation and Section 179 deduction in accordance with the IRC in effect on December 31, 2001, by ignoring the lines and instructions regarding the special depreciation allowance and the additional Section 179 deduction. **NOTE:** For Kentucky purposes, the maximum Section 179 deduction amount on Line 1 is \$25,000 and the threshold cost of Section 179 property on Line 3 is \$200,000. The \$25,000 maximum

allowable Section 179 deduction for Kentucky purposes is reduced dollar-for-dollar by the amount by which the cost of qualifying Section 179 property placed in service during the year exceeds \$200,000. In determining the Section 179 deduction for Kentucky, the income limitation on Line 11 should be determined by using Kentucky net income before the Section 179 deduction instead of federal taxable income.

3. The partnership **must attach the Kentucky converted Form 4562** to Form 765, and the amount from Line 22 less the amount on Line 12 of the Kentucky converted Form 4562 must be included on page 1, Part I-Ordinary Income (Loss) Computation, Line 8, Form 765 and the amount from Line 12 of the Kentucky converted Form 4562 must be included on Schedule K, Section I, Line 9. A Kentucky converted Form 4562 must be filed for each year even though a federal Form 4562 may not be required.

#### **Determining and Reporting Differences in Gain or Loss From Disposition of Assets—If during the year the partnership disposes of assets on which it has taken the special depreciation allowance or the additional Section 179 deduction for federal income tax purposes, the corporation will need to determine and report the difference in the amount of gain or loss on such assets as follows:**

1. Convert **federal Schedule D (Form 1065)** and other applicable federal forms to Kentucky forms by entering **Kentucky** at the top center of the form, and compute the Kentucky capital gain net income from the disposed assets using Kentucky basis. Include the amount from Line 5 of the Kentucky converted Schedule D (Form 1065) on Line 4(d) or 7, Section I of Schedule K, Form 765. Include the amount from Line 11 of the Kentucky converted Schedule D (Form 1065) on Line 4(e) or 7, Section I of Schedule K, Form 765. **Federal Schedule D (Form 1065) filed with the federal return and the Kentucky converted Schedule D must be attached to Form 765.**
2. If the amount reported on Line 6 of federal Form 1065, Net Gain or (Loss) Form 4797, is a gain, include this amount on page 1, Part I-Ordinary Income (Loss) Computation, Line 9, Form 765. If the amount reported on Line 6 of federal Form 1065, Net Gain or (Loss) Form 4797, is a loss, include this amount on page 1, Part I-Ordinary Income (Loss) Computation, Line 5, Form 765. Convert **federal Form 4797** and other applicable federal forms to Kentucky forms by entering **Kentucky** at the top center of the form, and compute the Kentucky gain or (loss) from the sale of business property using Kentucky basis. If the amount on Line 17 of Kentucky converted Form 4797 is a gain, include this amount on page 1, Part I-Ordinary Income (Loss) Computation, Line 5, Form 765. If the amount on Line 17 of Kentucky converted Form 4797 is a loss, include this amount on page 1, Part I-Ordinary Income (Loss) Computation, Line 9, Form 765. **Federal Form 4797 filed with the federal return and the Kentucky converted Form 4797 must be attached to Form 765.**

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

For taxable years beginning on or after January 1, 2007, a partnership that affords any of its partners or members, through function of the laws of this state or laws recognized by this state, protection from general liability for actions of the entity is classified as limited liability pass-through entity as provided by KRS 141.010(28). Also, for taxable years beginning on after January 1, 2007, an annual limited liability entity tax (LLET) shall be paid by every corporation and every limited liability pass-through entity doing business in Kentucky on all Kentucky gross receipts or Kentucky gross profits as provided by KRS 141.0401(2), unless specifically excluded. See LLET nonfiling status codes on page 9 of these instructions.

In determining tax as provided by KRS Chapter 141, a resident individual, estate or trust that is a partner or member of a partnership classified as a limited liability pass-through entity shall take into account the partner's or member's total distributive share of the partnership's items of income, loss and deduction. In determining tax as provided by KRS Chapter 141, a nonresident individual, estate or trust that is a partner or member of a partnership shall take into account: (1) if the partnership is doing business only in this state, the partner's or member's total distributive share of the partnership's items of income, loss and deduction; or (2) if the partnership is doing business both within and without this state, the partner's or member's total distributive share of the partnership's items of income, loss and deduction multiplied by the apportionment fraction as provided by KRS 141.206(9). **KRS 141.206(5)(6)**

In determining tax as provided by KRS Chapter 141, a corporation that is a partner or member of a partnership shall take into account its total distributive share of the partnership's items of income, loss and deduction. **KRS 141.206(7)**

A corporation that owns an interest in a partnership classified as a limited liability pass-through entity or that owns an interest in a general partnership organized or formed as a general partnership after January 1, 2006, shall include the proportionate share of the sales, property and payroll of the partnership classified as a limited liability pass-through entity or general partnership in computing its own apportionment factor. **KRS 141.206(7)(b)**

The LLET credit allowed partners or members of a partnership classified as a limited liability pass-through entity shall be the partners' or members' proportionate share of the LLET for the current year after the subtraction of any credits identified in KRS 141.0205 and reduced by \$175. The credit allowed partners or members shall be applied to the income tax assessed on income from the partnership. Any remaining credit from the partnership shall be disallowed. **KRS 141.0401(3)**

## **GENERAL INFORMATION**

**Internal Revenue Code Reference Date**—Effective for taxable years beginning after December 31, 2006, Kentucky Revised Statute (KRS) 141.010(3) was amended to define "Internal Revenue Code" (IRC) for Kentucky income tax purposes to mean the IRC in effect on December 31, 2006, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2006, that would otherwise terminate and as modified by KRS 141.0101, except that for property placed in service after September 10, 2001, only the depreciation and expense deductions allowed under Sections 168 and 179 of the Internal Revenue Code in effect on December 31, 2001, exclusive of any amendments made subsequent to that date. **KRS 141.010(3)**

**Kentucky Tax Registration Application**—Prior to doing business in Kentucky, each partnership should complete a Kentucky Tax Registration Application, Revenue Form 10A100. The

application is available at Kentucky Taxpayer Service Centers (see page 16) or from the Taxpayer Registration Section, Department of Revenue, Frankfort, KY 40620 or at [www.revenue.ky.gov](http://www.revenue.ky.gov) (click on Business). The application may be faxed to (502) 227-0772.

**Who Must File—NOTE:** The limitations imposed and protections provided by the United States Constitution or Pub. L. No. 86-272 do not apply to the limited liability entity tax imposed by KRS 141.0401. A Kentucky Partnership Income and LLET Return, Form 765, must be filed by every partnership: (a) being organized under the laws of this state; (b) having a commercial domicile in this state; (c) owning or leasing property in this state; (d) having one or more individuals performing services in this state; (e) maintaining an interest in a pass-through entity doing business in this state; (f) deriving income from or attributable to sources within this state, including deriving income directly or indirectly from a trust doing business in this state, or deriving income directly or indirectly from a single member limited liability company that is doing business in this state and is disregarded as an entity separate from its single member for federal income tax purposes; or (g) directing activities at Kentucky customers for the purpose of selling them goods or services. **KRS 141.010(25), KRS 141.040, KRS 141.0401 and KRS 141.206**

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

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

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

### **Withholding**

KRS 141.206(4)(b) provides that for taxable years beginning on or after January 1, 2007, every pass-through entity required to file a return under KRS 141.206(2), except publicly traded partnerships as defined in KRS 141.0401(6)(r), shall withhold Kentucky income tax on the distributive share, whether distributed or undistributed, of each nonresident individual partner, member or shareholder, or each corporate partner or member that is doing business in Kentucky only through its ownership interest in a pass-through entity. Withholding shall be at the maximum rate as provided in KRS 141.020 or KRS 141.040.

Withholding shall not be required if: (a) the pass-through entity demonstrates to the department that a partner, member or shareholder has filed an appropriate tax return for the prior year with the department, by attaching to the Kentucky Form 40A201, "740NP-WH, Kentucky Nonresident Income Tax Withholding on Net Distributive Share Income Transmittal Report," a statement that the partner, member or shareholder is exempt from withholding as provided by KRS 141.206(4)(b)2, and providing each partner's, member's or shareholder's name, address, federal identification number, Kentucky corporation/LLET account number, if applicable, and net distributive income; (b) the nonresident partner or member is exempt from Kentucky income tax as provided by KRS 141.040(1); (c) the partner, member or shareholder is a nonresident individual and the pass-through entity is a qualified investment pass-through entity as provided by KRS 141.206(12)(a); or (d) the partner or member is a pass-through entity as provided by KRS 141.010(26).

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

A pass-through entity shall complete Form 740NP-WH and Form PTE-WH for each individual nonresident partner, member, or shareholder and each corporate partner or member and mail Form 740NP-WH and Copy A of Form PTE-WH to the Kentucky Department of Revenue with payment by the 15<sup>th</sup> day of the fourth month following the close of the pass-through entity's taxable year. Also, Copies B and C of Form PTE-WH shall be provided to the partners, members or shareholders. Form 740NP-WH and Form PTE-WH are available at [www.revenue.ky.gov](http://www.revenue.ky.gov).

### Composite Return

For taxable years beginning on or after January 1, 2007, the Department of Revenue will permit the filing of a "composite return" as provided by KRS 141.206(13) on behalf of electing nonresident individual partners, members or shareholders of a pass-through entity as defined in KRS 141.010(26). Income tax will be computed at the highest marginal rate provided in KRS 141.020 on the partner's, member's or shareholder's pro rata share of the distributive share income from a pass-through entity doing business in, or deriving income from sources within Kentucky. The partner's, member's or shareholder's distributive share of income shall include all items of income or deduction used to compute adjusted gross income on the Kentucky return that is passed through to the partner, member or shareholder by the pass-through entity, including but not limited to interest, dividends, capital gains or losses, guaranteed payments and rents (KRS 141.206(13)).

The composite return of a pass-through entity shall be filed with the Department of Revenue, on Form 740-NP, Kentucky Individual Income Tax Return Nonresident or Part-Year Resident. The composite return box on the front of the Form 740-NP return shall be checked to indicate that this is a composite return, and a schedule shall be attached reporting each of the electing nonresident individual partner's, member's or shareholder's name, address, social security number, net distributive share income and tax due. The tax due for all electing partners, members or shareholders shall be remitted with the composite return. A pass-through entity filing a composite return shall make estimated tax payments if required by the provisions of KRS 141.300.

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

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

### Kentucky Forms and Schedules

1. Kentucky Partnership Income and LLET Return (Form 765)
2. Kentucky Partner's Share of Income, Credits, Deductions, Etc.—Schedule K-1 (Form 765)
3. Apportionment and Allocation (Schedule A)
4. Apportionment and Allocation—Continuation Sheet (Schedule A-C)
5. Limited Liability Entity Tax (Schedule LLET)
6. Limited Liability Entity Tax—Continuation Sheet (Schedule LLET-C)

7. Application for Filing Extension (Form 41A720SL)
8. Tax Credit Summary Schedule (Schedule TCS)

### Required Federal Forms and Schedules

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

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

### Electronic Funds Transfer (EFT)

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

**Accounting Procedures**—Kentucky income tax law requires a partnership to report income on the same calendar or fiscal year and to use the same methods of accounting required for federal income tax purposes. Any federally approved change in accounting periods or methods must be reported to the Department of Revenue. Attach a copy of the federal approval to the return when filed. **KRS 141.140**

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

**Filing/Payment Date**—A partnership return must be filed and payment must be made on or before the 15th day of the fourth month following the close of the taxable year. Mail the return with payment to Kentucky Department of Revenue, Frankfort, KY 40620. Make the check payable to **Kentucky State Treasurer. KRS 141.160, KRS 141.220 and Regulation 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**—An extension of time to file a partnership income and LLET return may be obtained by either making a specific request to the Department of Revenue or attaching a copy of the federal extension to the return when filed. **A copy of the federal extension submitted after the return is filed does not constitute a valid extension, and late filing penalties will be assessed.** If the partnership is making a payment with its extension, Kentucky Form 41A720SL must be used. For further information, see the instructions for Form 41A720SL. **Regulation 103 KAR 15:050**

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

### LLET Estimated Taxes

**The Corporation/Limited Liability Entity Estimated Tax Voucher, Form 720ES,** is used to submit estimated tax payments for LLET. If the partnership is required to make estimated LLET payments but did not receive Form 720ES, contact the Department of Revenue at (502) 564-3658 or visit the Web site at [www.revenue.ky.gov](http://www.revenue.ky.gov).

**NOTE:** See [www.revenue.ky.gov](http://www.revenue.ky.gov) for information on the 2008 estimated tax payments.

**LLET Estimated Tax Payments**—Estimated LLET payments must be made by each partnership whose LLET liability for the taxable year can reasonably be expected to exceed \$5,000. The first

estimated LLET payment must be made by the 15th day of the 6th month of the taxable year. To determine the amount of the first payment, subtract \$5,000 from the estimated full-year tax liability, and divide the result by two. The remaining one-half is due in equal installments on the 15th day of the 9th and 12th month, respectively.

**LLET Estimated Tax—Safe Harbor**—Every partnership subject to taxation under KRS 141.040 and/or KRS 141.0401 shall make a declaration of estimated LLET and must pay installments if the taxes imposed by KRS 141.040 and/or KRS 141.0401 for the taxable year can reasonably be expected to exceed \$5,000. A partnership that has a prior year tax liability less than or equal to \$25,000 must make estimated payments equal to its prior year tax liability **or** has a prior year tax liability greater than \$25,000 must pay at least 70 percent of the tax liability less \$5,000. **KRS 141.042 and KRS 141.044(1)**

#### Other Information

**Amended Return**—To correct Form 765 as originally filed, file an amended Form 765 and check the appropriate box on page 1. If the amended return results in a change in income or a change in the distribution of any income or other information provided to partners, an amended Schedule K-1 (Form 765) must also be filed with the amended Form 765 and given to each partner. Check the Amended K-1 box on each Schedule K-1 to indicate that it is an amended Schedule K-1.

**Records Retention**—The Department of Revenue deems acceptable virtually any records retention system which results in an essentially unalterable method of records storage and retrieval, provided: (a) authorized Department of Revenue personnel are granted access, including any specialized equipment; (b) taxpayer maintains adequate back-up; and (c) taxpayer maintains documentation to verify the retention system is accurate and complete.

**Internal Revenue Service Audit Adjustments**—A partnership which has received final adjustments resulting from Internal Revenue Service audits must submit a copy of the "final determination of the federal audit" within 30 days of the conclusion of the federal audit. Use Form 765 for reporting federal audit adjustments and check the Amended Return box.

**Interest**—Interest at the tax interest rate is applied to LLET liability not paid by the date prescribed by law for filing the return (determined without regard to extensions thereof). The tax interest rate for 2008 is available online at [www.revenue.ky.gov](http://www.revenue.ky.gov), or you may contact the Department of Revenue at (502) 564-8139 to obtain it.

#### Penalties

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

**Jeopardy Fee**—A \$100 minimum penalty on all nonfiled returns, when the taxpayer fails to file a return or provide information after being requested to do so by the Department of Revenue. **KRS 131.150(2)**

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

**Late payment or underpayment of estimated tax**—10 percent of the late payment or underpayment. The minimum penalty is \$25. **KRS 131.180(3)**

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

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

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

#### Cost of Collection Fees

- (a) 25 percent on all taxes which become due and owing for any reporting period, regardless of when due. These collection fees are in addition to all other penalties provided by law. **KRS 131.440(1)(a)**
- (b) 25 percent on all taxes assessed and collected by the Department of Revenue for taxable periods ending before December 1, 2001. **KRS 131.440(1)(b)**
- (c) 50 percent of any tax deficiency assessed after the amnesty period for nonfiled returns eligible for amnesty. **KRS 131.440(1)(c)**

### FORM 765—SPECIFIC INSTRUCTIONS

#### Period Covered

File the 2007 return for calendar year 2007 and fiscal years that begin in 2007. For a fiscal year, fill in the taxable period beginning and ending at the top of Form 765.

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

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

1	2	0	7
Mo.	Yr.	Mo.	Yr.

- A fiscal year is 12 consecutive months ending on the last day of any month except December. A fiscal year ending January 31, 2008, would be entered as:

0	1	0	8
Mo.	Yr.	Mo.	Yr.

- A 52/53-week year is a fiscal year that varies between 52 and 53 weeks. Example: A 52/53-week year ending the first week of January 2008, would be entered as:

1	2	0	7
Mo.	Yr.	Mo.	Yr.

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

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

**Item B**—Check the box indicating the method used in determining the amount of LLET due on the Schedule LLET, Section D, line 1.

#### LLET Nonfiling Status Code—Return Not Required

If the partnership is not required to file an LLET return, enter one of the following two-digit codes in the space provided.

REASON CODE	Reason
12	A property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390.
13	An alcohol production facility as defined in KRS 247.910.
17	A real estate mortgage investment conduit as defined in Section 860D of the Internal Revenue Code.
19	A cooperative described in Sections 521 and 1381 of the Internal Revenue Code, including farmers' agriculture and other cooperatives organized or recognized under KRS Chapter 272, advertising cooperatives, purchasing cooperatives, homeowners associations including those described in Section 528 of the Internal Revenue Code, political organizations as defined in Section 527 of the Internal Revenue Code and rural electric and rural telephone cooperatives.
20	A publicly traded partnership as defined in Section 7704(b) of the Internal Revenue Code that is treated as a partnership for federal tax purposes under Section 7704(c) of the Internal Revenue Code, or its publicly traded partnership affiliates. "Publicly traded partnership affiliates" shall include any limited liability company or limited partnership for which at least eighty percent (80%) of the limited liability company member interests or limited partner interests are owned directly or indirectly by the publicly traded partnership.

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

If the partnership is not required to file a Kentucky partnership income return, enter the following two-digit code in the space provided.

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

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

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

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

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

**Principal Business Activity in Kentucky**—Enter the entity's principal business activity in Kentucky.

**North American Industrial Classification System (NAICS)**—Enter your six-digit NAICS code. To view a complete listing of NAICS codes, visit the United States Census Bureau at [www.census.gov](http://www.census.gov).

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

- (a) *LLC*—Check this box if the partnership is organized as a limited liability company (LLC).
- (b) *LP*—Check this box if the partnership is organized as a limited partnership (LP).
- (c) *LLP*—Check this box if the partnership is organized as a limited liability partnership (LLP).
- (d) *Qualified Investment Pass-through Entity*—Check this box if the partnership is a qualified investment pass-through entity as provided by KRS 141.206(12)(a).
- (e) *Initial Return*—Check this box if this is the partnership's first time filing a partnership return in Kentucky. Complete questions 1, 2 and 3 on Form 765, page 2, Schedule Q—Kentucky Partnership Questionnaire.
- (f) *Final Return*—Check this box if this is the partnership's final return. If the partnership has dissolved or withdrawn, attach an explanation.
- (g) *Amended Return*—Check this box if this is an amended return. Attach statement giving explanation of changes to income, apportionment factor, and/or taxes.
- (h) *Short-period Return*—Check this box and submit an explanation for the short-period return that is not an initial return.

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

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

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

**Additions to Federal Ordinary Income**—Lines 2, 3, 4 and 5 itemize items of additional income or unallowed deductions which are differences between federal ordinary income and Kentucky ordinary income.

**Line 2**—Enter state taxes measured in whole or in part by gross or net income. "State" means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico, any territory or possession of the United States or any foreign country or political subdivision thereof. Attach a schedule reflecting the total taxes deducted on Form 1065. **KRS 141.010(13)(a)**

**Line 3**—Enter federal depreciation (do not include Section 179 deduction). See instructions on page 5 regarding depreciation and Section 179 deduction. If a federal Form 4562 is required to be filed for federal income tax purposes, a copy must be attached.

**Line 4**—Enter related party and intangible expenses prohibited by KRS 141.205.

**Line 5**—Enter other differences which result in additions to federal ordinary income in computing Kentucky ordinary income:

- (a) See instructions on page 5 regarding **differences in gain or loss from disposition of assets**. If applicable, include the amount of loss reported on Line 6 of federal Form 1065 and the amount of gain from Line 17 of Kentucky converted Form 4797. **Federal Form 4797 filed with the federal return and the Kentucky converted Form 4797 must be attached.**
- (b) To determine the allowable depletion deduction for Kentucky purposes, the percentage limitations provided by the IRC must be applied to Kentucky gross/net income rather than federal gross/net income. **KRS 141.050**
- (c) Any difference in the gain (loss) upon disposition of intangible assets resulting from a difference between the accumulated federal amortization deduction and the accumulated Kentucky amortization deduction. **Regulation 103 KAR 15:090**

**Line 6**—Enter the total of Lines 1, 2, 3, 4 and 5.

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

**Line 7**—Enter the amount of the work opportunity credit reflected on federal Form 5884. For Kentucky purposes, the partnership may deduct the total amount of salaries and wages paid or incurred for the taxable year. **This adjustment does not apply for other federal tax credits.**

**Line 8**—Enter Kentucky depreciation (do not include Section 179 deduction). See instructions on page 5 regarding depreciation and Section 179 deduction differences, and if applicable, Kentucky converted Form 4562 must be attached.

**Line 9**—Enter other differences which result in subtractions to federal ordinary income in computing Kentucky ordinary income:

- (a) See instructions on page 5 regarding **differences in gain or loss from disposition of assets**. If applicable, include the amount of gain reported on Line 6 of federal Form 1065 and the amount of loss from Line 17 of Kentucky converted Form 4797. **Federal Form 4797 filed with the federal return and the Kentucky converted Form 4797 must be attached.**
- (b) To determine the allowable depletion deduction for Kentucky purposes, the percentage limitations provided by the IRC must be applied to Kentucky gross/net income rather than federal gross/net income. **KRS 141.050**
- (c) Any difference in the gain (loss) upon disposition of intangible assets resulting from a difference between the accumulated federal amortization deduction and the accumulated Kentucky amortization deduction. **Regulation 103 KAR 15:090**

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

## PART II—LLET COMPUTATION

**Line 1**—Enter the amount from Schedule LLET, Section D, Line 1. A partnership must use Schedule LLET(K), Limited Liability Entity Tax for Pass-through Entities with Economic Development Project(s), if the partnership has one or more projects under the Kentucky Rural Economic Development Act (KREDA), Kentucky Industrial Development Act (KIDA), Kentucky Jobs Development Act (KJDA), Kentucky Economic Opportunity Zone (KEOZ) or Kentucky Industrial Revitalization Act (KIRA).

**Line 2**—This line is not used for 2007, as there is no recapture of the recycling/composting equipment credit for LLET purposes if the credit was not taken against the LLET in a prior year.

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

**Line 4**—Enter nonrefundable LLET credit from Kentucky Schedule(s) K-1. **Copies of Kentucky Schedule(s) K-1 must be attached to the tax return in order to claim the credit.**

**Line 5**—Enter the total tax credits from Schedule TCS, Part III, Column E.

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

**Line 7**—Enter the total LLET estimated tax payments made for the taxable year. Do not include the amount credited from prior year.

**Line 8**—Enter the amount of LLET paid with Form 41A720SL, Application for Six-Month Extension of Time to File Kentucky Corporation Income Tax Return.

**Line 9**—Enter the amount credited to 2007 from Part III, line 11 of the 2006 tax return.

**Line 10**—If Line 6 is greater than the total of Lines 7 through 9, enter the difference on this line and enter the amount in Tax Payment Summary.

**Line 11**—If Line 6 is less than the total of Lines 7 through 9, enter the difference on this line.

**Line 12**—Enter the portion of Line 11 to be credited to 2008 LLET.

**Line 13**—Enter the portion of Line 11 to be refunded (Line 11 less Line 12).

## SCHEDULE K (FORM 765)

**General Instructions**—Complete all applicable lines entering the total pro rata share amount for each item listed. Federal instructions for Form 1065 and federal Schedule K provide additional information which will assist the partnership in completing Schedule K, Form 765.

A partnership must use Form 765(K), Schedule K, For Partnerships (filing Form 765) with Economic Development Project(s), if the partnership has one or more projects under the Kentucky Rural Economic Development Act (KREDA), Kentucky Industrial Development Act (KIDA), Kentucky Jobs Development Act (KJDA), Kentucky Economic Opportunity Zone (KEOZ) or Kentucky Industrial Revitalization Act (KIRA).

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

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

**Line 2**—Enter net income (loss) from rental real estate activities reported on federal Schedule K, Form 1065, adjusted to reflect any differences in Kentucky and federal income tax laws.

**Line 3(a)**—Enter the gross income from other rental activities reported on federal Schedule K, Form 1065.

**Line 3(b)**—Enter the expenses from other rental activities reported on federal Schedule K, Form 1065, adjusted to reflect any differences in Kentucky and federal income tax laws.

**Line 3(c)**—Enter the difference of Line 3(a) and Line 3(b).

**Line 4(a)**—Enter interest income from federal Schedule K, Form 1065, adjusted to exclude tax-exempt U.S. government interest, if any, and to include interest income from obligations of states other than Kentucky and their political subdivisions.

**Lines 4(b) and 4(c)**—Enter the amount of dividend and royalty income reported on federal Schedule K, Form 1065.

**Line 4(d)**—See page 5 of the 2007 Form 765 instructions regarding **differences in gain or loss from disposition of assets**, and if applicable, enter the amount from Line 5 of the Kentucky converted Schedule D that is portfolio income. Report any gain or loss that is not portfolio income on Line 7, Schedule K, Form 765. **Kentucky converted Schedule D must be attached to Form 765.** Otherwise, enter the amount from Line 5 of the federal Schedule D (Form 1065) that is portfolio income.

**Line 4(e)**—See page 5 of the 2007 Form 765 instructions regarding **differences in gain or loss from disposition of assets**, and if applicable, enter the amount from Line 11 of the Kentucky converted Schedule D that is portfolio income. Report any gain or loss that is not portfolio income on Line 7, Schedule K, Form 765. **Kentucky converted Schedule D must be attached to Form 765.** Otherwise, enter the amount from Line 11 of the federal Schedule D (Form 1065) that is portfolio income.

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

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

**Line 6**—See page 5 of the 2007 Form 765 instructions regarding **differences in gain or loss from disposition of assets**. If applicable, enter the amount from Line 7 of the Kentucky converted Form 4797, and **Kentucky converted Form 4797 must be attached to Form 765.** Otherwise, enter net gain (loss) under Section 1231 from federal Form 4797. Do not include net gains (losses) from involuntary conversions due to casualties or thefts on this line. Instead, report them on Line 7.

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

**Line 8**—Enter total contributions paid by the partnership during its taxable year and attach a schedule showing separately the contributions subject to the 50 percent, 30 percent and 20 percent limitations. These percentage limitations must be applied to the Kentucky amounts rather than the federal amounts.

Also, enter amount of deduction allowable from Schedule HH for the value of leasehold interest of property donated for living quarters for a homeless family. The ordinary charitable contribution deduction must be reduced by any amount attributable to property on which this deduction is taken.

**Line 9**—See page 5 of the 2007 Form 765 instructions regarding **depreciation and Section 179 deduction differences**, and if applicable, include the amount from Line 12 of the Kentucky

converted Form 4562. **Kentucky converted Form 4562 must be attached.** Otherwise, enter Section 179 deduction from federal Form 4562.

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

**Line 11**—Enter any other deductions of the partnership not included on Lines 8, 9 and 10. See federal instructions for Schedule K, Form 1065.

**Line 12(a)**—Enter the partnership's deductible interest expense allocable to debt on property held for investment purposes. Property held for investment purposes includes property that produces investment income (interest, dividends, annuities, royalties, etc.). The total amount entered should equal the amount of interest expense reported on federal Schedule K, Form 1065, adjusted to exclude any interest expense on debts incurred to purchase or carry investment property producing, or held for the production of, U.S. government interest income.

**Lines 12(b)(1) and (b)(2)**—Enter only the investment income included on Lines 4(a), 4(b), 4(c) and 4(f), Schedule K, Form 765, and only the investment expenses related thereto included on Line 10, Schedule K, Form 765. See federal instructions for Schedule K, Form 1065.

**Line 13**—Enter the Skills Training Investment Credit Act (STICA) tax credit as provided by KRS 141.405 and attach a copy of the final resolution received from the Bluegrass State Skills Corporation.

**Line 14**—Enter the Historic Preservation Restoration Tax Credit as provided by KRS 171.397 and attach a copy of the final resolution received from the Kentucky Heritage Council.

**Line 15**—Enter the Kentucky Unemployment Tax Credit as provided by KRS 141.065 and attach Kentucky Schedule UTC (Form 42A740-UTC).

**Line 16**—Enter the Recycling and Composting Equipment Tax Credit as provided by KRS 141.390 and attach Kentucky Schedule RC (Form 41A720RC).

**Line 17**—Enter the Kentucky Investment Fund Tax Credit as provided by KRS 154.20-258 and attach a copy of the notification from Kentucky Economic Development Finance Authority (KEDFA) reflecting the amount of credit granted and the year in which the credit may first be claimed.

**Line 18**—Enter the Coal Incentive Tax Credit for electric power generation as provided by KRS 141.0405 and attach Kentucky Schedule CI (Form 41A720-CI).

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

**Line 20**—Enter the GED Incentive Tax Credit as provided by KRS 151B.127 and attach GED-Incentive Program Final Report (Form DAEL-31) for each employee that completed a learning contract during the year.

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

**Line 22**—Enter the Biodiesel Tax Credit as provided by KRS 141.424 and attach Kentucky Schedule BIO (41A720BIO).

**Line 23**—Enter the Environmental Stewardship Tax Credit as provided by KRS 141.430 and attach Kentucky Schedule.

**Line 24**—Enter the Clean Coal Incentive Tax Credit as provided by KRS 141.428 and attach Kentucky Schedule.

**Line 25(a)**—Enter the information provided on federal Schedule K, Form 1065, Line 13c(1).

**Line 25(b)**—Enter the amount reported on federal Schedule K, Form 1065, Line 13c(2).

**Line 26**—Enter the total amount of interest income of the partnership from U.S. government bonds and securities and obligations of Kentucky and its political subdivisions.

**Line 27**—Enter the total amount of any other type of income of the partnership on which the partner is exempt from Kentucky income tax.

**Line 28**—Enter the total amount of nondeductible expenses paid or incurred by the partnership including, but not limited to, state taxes measured by gross/net income, expenses related to tax-exempt income, etc. Do not include a deduction reported elsewhere on Schedule K, Form 765, capital expenditures or items the deductions for which are deferred to a later year.

**Line 29**—Enter the amount reported on federal Schedule K, Form 1065, Line 19a and 19b.

**Line 30**—Attach schedules to report the partnership's total income, expenses and other information applicable to items not included on Lines 1 through 29 including, but not limited to, any recapture of Section 179 deduction, gross income and other information relating to oil and gas well properties enabling the partnership to figure the allowable depletion deduction, and any other information the partners need to prepare their Kentucky income tax returns. See federal instructions for Schedule K, Form 1065, Line 13d.

Kentucky domestic production activities deduction (KDPAD)—KDPAD is only computed for corporations as defined in KRS 141.010(24). General partnerships (Form 765-GP), limited liability partnerships (Form 765), S corporations (Form 720S) and individually owned single member LLC(s) (Form 725 or Schedule CP, Form 725) shall provide for partners, shareholders or members that are corporations, individual nonresidents, estates, trusts or general partnerships the Kentucky domestic production gross receipts, the federal domestic production gross receipts and Kentucky wages. In addition, general partnerships shall provide the Kentucky qualified production activities income from the general partnership to its partners or the necessary Kentucky information to compute this amount. Attach this information to this return and the distributive share to each Schedule K-1. Also, see additional instructions on Kentucky Form 8903-K.

**Line 31**—Enter the recapture of Recycling and Composting Equipment Tax Credit as provided by KRS 141.390 and attach Kentucky Schedule RC-R (41A720RC-R).

## Section II—LLET Pass-through Items

**Lines 1 through 8 of this section do not need to be completed if all the partners or members are individuals, estates or trusts. In order to enter the correct amounts on lines 1 through 8 of this section, Schedule A (Form 41A720A) must be completed and attached to the tax return.**

**Line 1**—Enter the partnership's Kentucky sales from Schedule A, Section I, Line 1.

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

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

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

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

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

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

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

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

## Tax Payment Summary

The payment submitted with Form 765 must be itemized. Enter the amount of LLET payment from page 1, Part II, Line 10 and on the applicable tax payment line in addition to its respective amount of penalty and interest. Enter the total payment on the Total Payment line.



**Signature**—Form 765 must be signed by a partner or member. **Failure by a partner or member to sign the return, to complete all applicable lines on any required Kentucky form, to attach all applicable schedules including copies of federal forms or to complete all information on the questionnaire will delay the processing of tax returns and may result in the assessment of penalties.**

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

### General Instructions

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

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

**Photocopies of Schedule K-1 (Form 765)** may be used in lieu of the official schedule printed by the Department of Revenue, provided the photocopies are on bond paper of at least 16 pounds and are of good quality.

### Specific Instructions

Federal instructions for Schedule K-1 (Form 1065) explain the rules for allocating items of income (loss), deductions, credits, etc., to each partner. The distributive share items reported on all Schedules K-1, Column (b), Lines 1 through 31 must equal the amounts reported on Schedule K, Lines 1 through 31. The distributive share items reported on all Schedules K-1, Column (b), Lines 32 through 40 must equal the amounts reported on comparable lines of Schedule K, Section II, Lines 1 through 9. Schedule K-1, Column (b), Lines 41 through 43 do not correspond with Schedule K.

**Multiple Activities**—If items of income, loss or deduction from more than one activity are reported on Lines 1, 2 or 3 of Schedule K-1 (Form 765), the partnership must provide information for each activity to its partners. See **Passive Activity Reporting Requirements** in the instructions for Schedule K-1 (Form 1065) for details on the information to be provided on an attachment to Schedule K-1 (Form 765) for each activity.

**At-Risk Activities**—If the partnership is involved in one or more at-risk activities for which a loss is reported on Schedule K-1 (Form 765), the partnership must report information separately for each at-risk activity. See **Special Reporting Requirements for At-Risk Activities** in the federal instructions for Schedule K-1 (Form 1065) for details on the information to be provided on an attachment to Schedule K-1 (Form 765) for each at-risk activity.

**Lines 1 through 40**—Enter the partner's total pro rata share of each item listed on Schedule K, Form 765. **Do not multiply these**

**amounts by the percentage entered on Item D(2).** Attach schedules showing separately the required information for each IRC Section 469 passive activity and each Section 465 at-risk activity. Other schedules are to be attached for line items where requested on Schedule K-1 (Form 765).

Enter on attached schedules the supplemental information required to be reported separately to each partner for Lines 1 through 40 and any other information or items and amounts not included on Schedule K-1 (Form 765) for which the partner needs to prepare a Kentucky income tax return including, but not limited to, any recapture of Section 179 deduction, gross income and other information relating to oil and gas well properties enabling the partner to figure the allowable depletion deduction, etc. See instructions for federal Schedule K-1 (Form 1065), Line 20.

**Lines 41 through 43**—The amounts in Column (b) are to be entered by the partner, not the partnership.



---

## Tax Credit Summary Schedule—Schedule TCS

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

**Economic Development Tax Credits**—This section is completed only if the taxpayer has been approved for one or more of the credits authorized by the Kentucky Rural Economic Development Act (KREDA–KRS 154.22), the Kentucky Jobs Development Act (KJDA–KRS 154.24), the Kentucky Industrial Revitalization Act (KIRA–KRS 154.26), the Kentucky Industrial Development Act (KIDA–KRS 154.28), the Kentucky Economic Opportunity Zone (KEOZ–KRS 154.23), the Skills Training Investment Credit Act (STICA–KRS 154.12–2084 to 2089), the Kentucky Reinvestment Act (KRA–KRS 154.34), or the Kentucky Jobs Retention Agreement (KJRA–KRS 154.25). **If an amount is entered, the return and applicable schedules must be mailed to Economic Tax Credits, Tax Credits Section, Department of Revenue, P.O. Box 181, Frankfort, KY 40602-0181.**

To qualify for the KREDA, KJDA, KIRA, KIDA, KEOZ, KRA or KJRA credits, the taxpayer must be approved by the Kentucky Economic Development Finance Authority (KEDFA) and have executed and activated the appropriate agreement with KEDFA. Form(s) and instructions for the computation of the credit(s) will be mailed to the approved taxpayer. To claim any of these credits, the applicable tax credit schedule must be attached.

To claim the STICA credit, a copy of the final authorizing resolution received from the Bluegrass State Skills Corporation reflecting the amount of credit awarded must be attached. The credit shall be claimed on the income tax return filed for the taxable year during which the final authorizing resolution is adopted by the Bluegrass State Skills Corporation. If the amount of the credit exceeds the income tax liability for the taxable year during which the final authorizing resolution is adopted by the Bluegrass State Skills Corporation, the excess may be carried forward for three successive years. If the credit claimed is being carried forward from a prior year, attach a schedule reflecting the computation of the amount of credit available to be carried forward in addition to the final authorizing resolution from the Bluegrass State Skills Corporation.

Economic Development Credits are allowed against the taxes imposed by 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 of Financial Incentives at (502) 564-4554.

**Historic Preservation Restoration Tax Credit**—This credit is allowed only if the taxpayer has been approved for the credit by the Kentucky Heritage Council. Credit is allowed against the taxes imposed by KRS 141.020, KRS 141.040, KRS 141.0401 and KRS 136.505 for qualified rehabilitation expenses on certified historic structures. Information regarding this credit is at [www.heritage.ky.gov](http://www.heritage.ky.gov). **KRS 171.397**

**Unemployment Tax Credit**—If a taxpayer has hired a Kentucky resident classified as unemployed for at least 60 days and the resident remains in the employ of the taxpayer for 180 consecutive days during the tax year (a qualified person), the taxpayer may be entitled to the unemployment tax credit against the taxes imposed by KRS 141.020, KRS 141.040 and KRS 141.0401. For each qualified person, a one-time nonrefundable credit of \$100 may be claimed. The period of unemployment must be certified by the Education Cabinet, Department of Workforce Investment, Office of Employment and Training, Frankfort, KY, and a copy of the certification must be maintained by the taxpayer. For certification questions, call (502) 564-7456. Schedule UTC must be attached to the return claiming this credit. **KRS 141.065**

**Recycling/Composting Tax Credit**—A taxpayer, which purchases recycling and/or composting equipment to be used exclusively in Kentucky for recycling or composting post-consumer waste materials, may be entitled to a nonrefundable credit against the taxes imposed by KRS 141.020, KRS 141.040 and KRS 141.0401 in an amount equal to 50 percent of the installed cost of the equipment. Application for this credit must be made on Schedule RC, and a copy of the schedule reflecting the amount of credit approved by the Department of Revenue must be attached to the tax return on which the credit is claimed. The amount of this credit claimed for the tax year may not exceed 25 percent of the tax liability and cannot exceed 10 percent of the credit approved in the first year of eligibility.

For taxable years beginning after December 31, 2004, a taxpayer which purchases recycling and/or composting equipment to be used exclusively in Kentucky for recycling or composting post-consumer waste material that qualifies as a Major Recycling Project is entitled to a nonrefundable credit against the taxes imposed by KRS 141.020, KRS 141.040 and KRS 141.0401. The credit is an amount equal to 50 percent of the installed cost of the recycling or composting equipment limited to: 50 percent of the excess of the total of each tax liability over the baseline tax liability of the taxpayer or \$2,500,000. To qualify, the taxpayer must: (1) invest more than \$10,000,000 in recycling or composting equipment to be used exclusively in this state; (2) have more than 750 full-time employees with an average hourly wage of more than 300 percent of the federal minimum wage; and (3) have plant and equipment with a total cost of more than \$500,000,000. Application for this credit must be made on Schedule RC, and a copy of the schedule reflecting the amount of credit approved by the Department of Revenue must be attached to the tax return on which the credit is claimed. The credit is limited to a period of 10 years commencing with the approval of the recycling credit application.

A taxpayer is entitled to claim the recycling credits in KRS 141.390(a) and (b) but cannot claim both for the same recycling and/or composting equipment.

Enter the amount of additional recycling credit allowed from Schedule RC-R, Disposition of Recycling or Composting Equipment, Line 10. **Schedule RC-R must be attached. KRS 141.390**

**Coal Conversion Tax Credit**—A corporation which converts boilers from other fuels to the use of Kentucky coal or which substitutes Kentucky coal for other fuels in a boiler capable of burning coal and other fuels to produce energy for specific purposes may be entitled to a credit against the taxes imposed by KRS 141.040 and KRS 141.0401 equal to 4.5 percent of expenditures for Kentucky coal (less transportation costs). Unused portions of this credit may not be carried forward or back. Schedule CC must be attached to the tax return claiming this credit. **KRS 141.041**

**Kentucky Investment Fund Tax Credit**—A taxpayer which makes a cash contribution to an investment fund approved by KEDFA in accordance with KRS 154.20-250 to 154.20-284 is entitled to a nonrefundable credit equal to 40 percent of the investor's proportional ownership share of all qualified investments made by its investment fund and verified by the authority. The credit may be applied against the taxes imposed by KRS 141.020, KRS 141.040, KRS 141.0401, KRS 136.320, KRS 136.300, KRS 136.310, KRS 136.505 and KRS 304.3-270. **A copy of the notification from KEDFA reflecting the amount of credit granted and the year in which the credit may first be claimed must be attached to the tax return claiming this credit.**

The tax credit amount that may be claimed by an investor in any tax year shall not exceed 50 percent of the initial aggregate credit amount approved by the authority for the investment fund which is proportionally available to the investor. **Example:** *An investor with a 10 percent investment in a fund which has been approved for a total credit to all investors of \$400,000 is limited to \$20,000 maximum credit in any given year (\$400,000 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 shall not increase the limitation that may be claimed in any tax year. Any credit not used in 15 years, including the year in which the credit may first be claimed, shall be lost.

Information regarding the approval process for these credits may be obtained from the Cabinet for Economic Development, Department of Financial Incentives at (502) 564-4554.

**Coal Incentive Tax Credit**—Effective for tax returns filed after July 15, 2001, an electric power company or a company that owns and operates a coal-fired electric generating plant may be entitled to a coal incentive tax credit first against the taxes imposed by KRS 141.020, KRS 141.040 and KRS 141.0401 and then against tax imposed by KRS 136.120. Application for this credit is made on Schedule CI, Application for Coal Incentive Tax Credit, and a copy of the credit certificate issued by the Kentucky Department of Revenue must be attached to the tax return on which the credit is claimed. **KRS 141.0405**

**Qualified Research Facility Tax Credit**—A taxpayer is entitled to a credit against the taxes imposed by KRS 141.020, KRS 141.040 and KRS 141.0401 of 5 percent of the qualified costs of construction, remodeling, expanding and equipping facilities in Kentucky for "qualified research." Any unused credit may be carried forward 10 years. Schedule QR, Qualified Research Facility Tax Credit, must be attached to the tax return on which this credit is claimed. Federal Form 6765, Credit for Increasing Research Activities, must also be attached if applicable. See instructions for Schedule QR for more information regarding this credit. **KRS 141.395**

**GED Incentive Tax Credit**—A taxpayer is entitled to a credit against the taxes imposed by KRS 141.020, KRS 141.040 and KRS 141.0401. The credit reflected on this line must equal the sum of the credits reflected on the attached GED-Incentive Program Final Reports. This credit may be claimed only in the year during which the learning contract was completed and unused portions of the credit may not be carried forward or back. For information regarding the program, contact the Education Cabinet, Kentucky Adult Education, Council on Postsecondary Education. The GED-Incentive Program Final Report (DAEL-31) for each employee that completed a learning contract during the tax year must be attached to the tax return claiming the credit. **KRS 151B.127**

**Voluntary Environmental Remediation Tax Credit (Brownfield)**—The taxpayer must have an agreed order and be approved by the Environmental and Public Protection Cabinet under the provisions of KRS 224.01-518. Maximum allowed to be claimed per taxable year is 25 percent of the approved credit. This credit may be claimed against the taxes imposed by KRS 141.020, KRS 141.040 and KRS 141.0401. For more information regarding credit for voluntary environmental remediation property, contact the Environmental and Public Protection Cabinet at (502) 564-3350.

Schedule VERB must be attached to the tax return claiming this credit. **KRS 141.418**

**Biodiesel Tax Credit**—The 2007 Second Extraordinary Session amended 141.422 to include renewable diesel to be subject to the biodiesel tax credit. Producers and blenders of biodiesel and producers of renewable diesel are entitled to a tax credit against the taxes imposed by KRS 141.020, KRS 141.040 and KRS 141.0401. The taxpayer must file a claim for biodiesel credit with the Department of Revenue by January 15 each year for biodiesel produced or blended and the renewable diesel produced in the previous calendar year. The department shall issue a credit certification (Schedule BIO) to the taxpayer by April 15. The credit certification must be attached to the tax return claiming this credit. **KRS 141.423 and Regulation 103 KAR 15:140**

**Environmental Stewardship Tax Credit**—For tax years beginning on or after January 1, 2006, an approved company may be entitled to a credit against the taxes imposed by KRS 141.020, KRS 141.040 or KRS 141.0401 on the income and the LLET of the approved company generated by or arising out of a project as determined under KRS 154.48-020. An "environmental stewardship product" means any new manufactured product or substantially improved existing manufactured product that has a lesser or reduced adverse effect on human health and the environment or provides for improvement to human health and the environment when compared with existing products or competing products that serve the same purpose. A company must have eligible costs of at least \$5 million and within six months after the activation date, the approved company compensates a minimum of 90 percent of its full-time employees whose jobs were created or retained with base salary wages equal to either: (1) 75 percent of the average hourly wage for the commonwealth; or (2) 75 percent of the average hourly wage for the county in which the project is to be undertaken. The maximum amount of negotiated inducement that can be claimed by a company for any single tax year may be up to 25 percent of the authorized inducement. The agreement shall expire on the earlier of the date the approved company has received inducements equal to the approved costs of its project, or 10 years from the activation date. For more information, contact the Cabinet for Economic Development, Department of Financial Incentives at (502) 564-4554. **KRS 154.48**

**Caution:** An approved company under the Environmental Stewardship Act shall not be entitled to the recycling credit provided under the provisions of KRS 141.390 for equipment used in the production of an environmental stewardship project.

**Clean Coal Incentive Tax Credit**—Effective for tax years ending on or after December 31, 2006, a nonrefundable, nontransferable credit against the taxes imposed by KRS 136.120, KRS 141.020, KRS 141.040 or KRS 141.0401 shall be allowed for a clean coal facility. As provided by KRS 141.428, a clean coal facility means an electric generation facility beginning commercial operation on or after January 1, 2005, at a cost greater than \$150 million that is located in the Commonwealth of Kentucky and is certified by the Environmental and Public Protection Cabinet as reducing emissions of pollutants released during generation of electricity through the use of clean coal equipment and technologies. The amount of the credit shall be \$2 per ton of eligible coal purchased that is used to generate electric power at a certified clean coal facility, except that no credit shall be allowed if the eligible coal has been used to generate a credit under KRS 141.0405 for the taxpayer, parent or subsidiary. **KRS 141.428**

## TAXPAYER ASSISTANCE

### Forms:

Operations and Support Services Branches  
501 High Street  
Frankfort, KY 40620  
(502) 564-3658



Web site: [www.revenue.ky.gov](http://www.revenue.ky.gov)  
E-mail: [Financerevenueformsandenvelopes@ky.gov](mailto:Financerevenueformsandenvelopes@ky.gov)

### Information:

Division of Corporation Tax  
Department of Revenue  
P.O. Box 1302  
Frankfort, KY 40602-1302



Department of Revenue  
501 High Street  
Frankfort, KY 40620  
(502) 564-8139

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

## KENTUCKY TAXPAYER SERVICE CENTERS

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

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

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

**Central Kentucky**, 501 High Street, Frankfort, 40620  
(502) 564-4581 (*Taxpayer Assistance*)

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

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

**Louisville**, 620 South Third Street  
Suite 102, 40202-2446  
(502) 595-4512

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

**Owensboro**, 311 West Second Street, 42301-0734  
(270) 687-7301

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

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

## Kentucky Department of Revenue Mission Statement

*As part of the Finance and Administration Cabinet, the mission of the Kentucky Department of Revenue is to administer tax laws, collect revenue, and provide services in a fair, courteous, and efficient manner for the benefit of the Commonwealth and its citizens.*

\* \* \* \* \*

*The Kentucky Department of Revenue does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of services.*

Printing costs paid from state funds.



## 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.

### RIGHTS OF TAXPAYER

**Privacy**—You have the right to privacy of information provided to the DOR.

**Assistance**—You have the right to advice and assistance from the DOR in complying with state tax laws.

**Explanation**—You have the right to a clear and concise explanation of:

- basis of assessment of additional taxes, interest and penalties, or the denial or reduction of any refund or credit claim;
- procedure for protest and appeal of a determination of the DOR; and
- tax laws and changes in tax laws so that you can comply with the law.

**Protest and Appeal**—You have the right to protest and appeal a determination of the DOR if you disagree with an assessment of tax or penalty, reduction or a denial of a refund, a revocation of a license or permit, or other determination made by the DOR.

**Conference**—You have the right to request a conference to discuss the issue.

**Representation**—You have the right to representation by your authorized agent (attorney, accountant or other person) in any hearing or conference with the DOR. You have the right to be informed of this right prior to the conference or hearing. If you intend for your representative to attend the conference or hearing in your place, you may be required to give your representative a power of attorney before the DOR can discuss tax matters with your authorized agent.

**Recordings**—You have the right to make an audio recording of any meeting, conference, or hearing with the DOR. The DOR has the right to make an audio recording, if you are notified in writing in advance or if you make a recording. You have the right to receive a copy of the recording.

**Consideration**—You have the right to consideration of:

- waiver of penalties or collection fees if "reasonable cause" for reduction or waiver is given ("reasonable cause" is defined in KRS 131.010(9) as: "an event, happening, or circumstance entirely beyond the knowledge or control of a taxpayer who has exercised due care and prudence in the filing of a return or report or the payment of monies due the department pursuant to law or administrative regulation");
- installment payments of delinquent taxes, interest and penalties;

- waiver of interest and penalties, but not taxes, resulting from incorrect written advice from the DOR if all facts were given and the law did not change or the courts did not issue a ruling to the contrary;
- extension of time for filing reports or returns; and
- payment of charges incurred resulting from an erroneous filing of a lien or levy by the DOR.

**Guarantee**—You have the right to a guarantee that DOR employees are not paid, evaluated or promoted based on taxes assessed or collected, or a tax assessment or collection quota or goal imposed or suggested.

**Damages**—You have the right to file a claim for actual and direct monetary damages with the Kentucky Board of Claims if a DOR employee willfully, recklessly and intentionally disregards your rights as a Kentucky taxpayer.

**Interest**—You have the right to receive interest on an overpayment of tax, except delinquent property tax, payable at the same rate you would pay if you underpaid your tax.

### DEPARTMENT OF REVENUE RESPONSIBILITIES

The DOR has the responsibility to:

- perform audits, conduct conferences and hearings with you at reasonable times and places;
- authorize, require or conduct an investigation or surveillance of you only if it relates to a tax matter;
- make a written request for payment of delinquent taxes which are due and payable at least 30 days prior to seizure and sale of your assets;
- conduct educational and informational programs to help you understand and comply with the laws;
- publish clear and simple statements to explain tax procedures, remedies, your rights and obligations, and the rights and obligations of the DOR;
- notify you in writing when an erroneous lien or levy is released and, if requested, notify major credit reporting companies in counties where lien was filed;
- advise you of procedures, remedies and your rights and obligations with an original notice of audit or when an original notice of tax due is issued, a refund or credit is denied or reduced, or whenever a license or permit is denied, revoked or canceled;
- notify you in writing prior to termination or modification of a payment agreement;
- furnish copies of the agent's audit workpapers and a written narrative explaining the reason(s) for the assessment;
- resolve tax controversies on a fair and equitable basis at the administrative level whenever possible; and
- notify you in writing at your last known address at least 60 days prior to publishing your name on a list of delinquent taxpayers for which a tax or judgment lien has been filed.

## PROTEST AND APPEAL PROCEDURE

**Protest**—If you receive a notice of assessment, a Notice of Tax Due for tax or penalty or if the DOR notifies you that a tax refund or credit has been reduced or denied, a license or permit revoked or denied, or other determination made by the DOR, you have the right to protest. To do so:

- submit a written protest within 45 days from the original notice date;
- identify the type of tax involved and give the account number, Social Security number or other identification number and attach a copy of the DOR notice of determination to support that protest is timely;
- explain why you disagree;
- attach any proof or documentation available to support your protest or request additional time to support your protest;
- sign your statement, include your daytime telephone number and mailing address; and
- mail to the Kentucky Department of Revenue, Frankfort, KY 40620.

**Independent Informal Review**—You have the right to request an independent informal review.

**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).

## TAXPAYER OMBUDSMAN

The DOR has a Taxpayer Ombudsman whose job is to serve as an advocate for taxpayers' rights. One of the main functions of the Ombudsman is to ensure that your rights as a Kentucky taxpayer are protected.

Also, an important function of the Taxpayer Ombudsman is to confer with DOR employees when you have a problem or conflict that you have been unable to resolve. However, it is not the role of the Ombudsman to intercede in an audit, handle a protest, waive taxes, penalty or interest, or answer technical tax questions. To file a protest, see PROTEST AND APPEAL PROCEDURE. Please do not mail your protest to the Ombudsman.

The Taxpayer Ombudsman is your advocate and is there to make sure your rights are protected. If you think you are not being treated fairly or if you have a problem or complaint, please contact the Ombudsman for assistance.

The Taxpayer Ombudsman may be contacted by telephone at (502) 564-7822 (between 8:00 a.m. and 5:00 p.m. weekdays). The mailing address is: Department of Revenue, Taxpayer Ombudsman, P.O. Box 930, Frankfort, Kentucky 40602-0930.

## WHERE TO GET ASSISTANCE

The DOR has offices in Frankfort and taxpayer service centers in nine cities and towns throughout Kentucky. DOR employees in the service centers answer tax questions and provide assistance. You may obtain assistance by contacting any of the following:

### Ashland Taxpayer Service Center

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

### Bowling Green Taxpayer Service Center

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

### Central Kentucky Taxpayer Service Center

501 High Street  
Frankfort 40620  
(502) 564-4581 (*Taxpayer Assistance*)

### Corbin Taxpayer Service Center

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

### Hopkinsville Taxpayer Service Center

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

### Louisville Taxpayer Service Center

620 South Third Street, Suite 102, 40202-2446  
(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

311 West Second Street, 42301-0734  
(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).

\* \* \* \* \*

This information merely summarizes your rights as a Kentucky taxpayer and the responsibilities of the Department of Revenue. The Kentucky Taxpayers' Bill of Rights may be found in the Kentucky Revised Statutes (KRS) at Chapter 131.041—131.081. Additional rights and responsibilities are provided for in KRS 131.020, 131.110, 131.170, 131.183, 131.500, 133.120, 133.130, 134.580 and 134.590.