

**139.518 Sales or use tax refund on energy-efficiency products used at manufacturing plant.**

- (1) "Energy efficiency project" means a project undertaken by a person engaged in manufacturing whereby the person purchases new or replacement machinery or equipment that reduces the consumption of energy or energy-producing fuels in the manufacturing process at a plant facility in this state by at least fifteen percent (15%) measured in megawatts, gallons, or other measurable units of energy, while maintaining or increasing the number of units of production for that same period. For purposes of this section, "machinery or equipment" does not include:
  - (a) Windows, lighting, or other improvements to buildings; or
  - (b) Repair, replacement, and spare parts as defined in KRS 139.010.
- (2)
  - (a) The consumption reduction and the production rate shall be calculated by comparing the consumption and production rates during a twelve (12) month period immediately after the new or replacement machinery or equipment is placed in service with the consumption and production rates for the twelve (12) month period submitted with the application for preapproval as required in subsection (4) of this section.
  - (b) If the manufacturer believes that the method described in paragraph (a) of this subsection does not accurately reflect the reduction in energy or energy-producing fuels used in the manufacturing process, the manufacturer may submit additional information to the department for consideration.
- (3) Notwithstanding KRS 134.580(3) and 139.770, a person engaged in manufacturing at a plant facility located in this state may apply for a refund equal to the amount of Kentucky sales or use tax paid on the purchase of new or replacement machinery or equipment for an energy efficiency project purchased on or after July 1, 2008, reduced by the amount of vendor compensation allowed under KRS 139.570.
- (4) The manufacturer shall file an application for preapproval with the department, on a form provided by the department, prior to purchasing the new or replacement machinery or equipment that includes:
  - (a) A description of the new or replacement machinery or equipment;
  - (b) Documentation of the amount of energy or energy-producing fuels consumed in the twelve (12) month period prior to the application for preapproval; and
  - (c) Any other information the department may request.
- (5) The department shall acknowledge receipt of the application for preapproval.
- (6) The manufacturer shall file an application for incentives that includes documentation of:
  - (a) The achievement of the energy-efficiency standards required by subsection (1) of this section within eighteen (18) months from the time the machinery or equipment was placed in service; and
  - (b) Verification that the Kentucky sales and use tax was paid on the purchase of the new or replacement machinery or equipment.

- (7) The burden of proof that the purchase of the machinery or equipment resulted in a decrease in the consumption of energy or energy-producing fuels shall be upon the applicant.
- (8) Interest shall not be allowed or paid on any refund made under this section.

**Effective:** August 1, 2008

**History:** Amended 2008 Ky. Acts ch. 95, sec. 12, effective August 1, 2008. -- Created 2007 (2d Extra. Sess.) Ky. Acts ch. 1, sec. 17, effective August 30, 2007.