

**144.125 General tax credit -- Qualifications -- Amount -- Duration -- Use -- Reporting requirements.**

- (1) Subject to the provisions of subsections (4) through (9) of this section and KRS 144.130, any certificated air carrier which is engaged in the air transportation of persons or property for hire shall be entitled to a general tax credit, as computed in subsection (3) of this section, for any annual period in which the certificated air carrier meets or exceeds the investment and gross wage qualification requirements prescribed in subsection (2) of this section and has elected to begin claiming the credit.
- (2) To qualify for the general tax credit provided in subsection (1) of this section, the certificated air carrier shall:
  - (a) Prior to or during the annual period for which the credit is claimed, have made, caused to be made, or obtained contractual obligations to make, consistent with the fundamental project scope, an investment in the aggregate of at least three hundred million dollars (\$300,000,000) in new and expanded air transportation facilities and related equipment in this Commonwealth; and
  - (b) During the annual period for which the credit is claimed, have gross wages subject to Kentucky income tax and Kentucky income tax withholding pursuant to KRS Chapter 141 which are at least fifteen million dollars (\$15,000,000) greater than its gross Kentucky real wage base. In calculating the gross wages paid for the annual period for which the credit is claimed, there shall not be included the wages of any nonqualifying employees of the certificated air carrier.
- (3) The general tax credit shall be an amount equal to ten percent (10%) of the increase in gross wages subject to Kentucky income tax and Kentucky income tax withholding paid by the certificated air carrier during the annual period as compared to the carrier's gross Kentucky real wage base. In calculating the gross wages paid for the annual period for which the credit is claimed, there shall not be included the wages of any nonqualifying employees of the certificated air carrier.
- (4) The general tax credit may accrue for only five (5) consecutive annual periods of the qualifying certificated air carrier. The five (5) year limitation period shall begin at the election of the qualifying certificated air carrier, but not later than the carrier's annual period beginning in 1997. The tax credit shall accrue to the carrier only for the annual periods during which the carrier meets or exceeds the requirements as provided in subsection (2) of this section.
- (5) The general tax credit authorized to a qualifying certificated air carrier shall not exceed three million dollars (\$3,000,000) for any annual period.
- (6) The general tax credit authorized to a qualifying certificated air carrier shall not exceed a total of fifteen million dollars (\$15,000,000).
- (7) The general tax credit authorized shall be claimed by the qualifying certificated air carrier first against the tax liability imposed by KRS 141.040, then against its Kentucky corporation license tax liability, with any remaining balance to be claimed against its Kentucky sales and use tax liability. The credit shall not be applied to any

other liability due the Commonwealth. The Department of Revenue may prescribe the method or manner for the qualifying certificated air carrier to claim the tax credit on applicable tax returns filed with the department.

- (8) If the tax liabilities against which the tax credit is to be claimed pursuant to subsection (7) of this section are not sufficient to fully absorb the allowable tax credit, or if a subsequent adjustment reduces the carrier's liability against which a credit authorized by this section has previously been claimed, the unused or excess balance of the allowable credit may be applied against the carrier's liabilities for the specified taxes for previous or subsequent annual periods within the five (5) year limitation period. However, no refund in excess of the net tax actually paid by the carrier shall be made by the Commonwealth because of the carrier's application of the unused or excess credit. Interest shall not apply to any tax refunded for a prior period resulting from the credit carryback provisions of this subsection.
- (9) Each certificated air carrier claiming the general tax credit authorized pursuant to this section shall file an annual general tax credit reconciliation report with the Department of Revenue on or before the fifteenth day of the fourth month following the end of each annual period for which the credit is claimed. The report shall be filed as provided in KRS 144.135 to 144.139 for each type tax against which the credit is applied.

**Effective:** June 20, 2005

**History:** Amended 2005 Ky. Acts ch. 85, sec. 556, effective June 20, 2005; and ch. 168, sec. 34, effective March 18, 2005. -- Created 1991 (1st Extra. Sess.) Acts ch. 7, sec. 4, effective May 24, 1991.

**Legislative Research Commission Note** (3/18/2005). 2005 Ky. Acts ch. 168, sec. 165, provides that this section shall apply to tax years beginning on or after January 1, 2005.

**Legislative Research Commission Note** (3/18/2005). This section was amended by 2005 Ky. Acts chs. 85 and 168, which do not appear to be in conflict and have been codified together.