155.170 Certification of tax credits.

(1) An annual excise tax is hereby levied on every corporation organized under this chapter for the privilege of transacting business in this Commonwealth during the calendar year, according to or measured by its entire net income, as defined herein, received or accrued from all sources during the preceding calendar year, hereinafter referred to as taxable year, at the rate of four and one-half percent (4.5%) of such entire net income. The minimum tax assessable to any one (1) such corporation shall be ten dollars ($10). The liability for the tax imposed by this section shall arise upon the first day of each calendar year, and shall be based upon and measured by the entire net income of each such corporation for the preceding calendar year, including all income received from government securities in such year. As used in this section the words "taxable year" mean the calendar year next preceding the calendar year for which and during which the excise tax is levied.

(2) The excise tax levied under subsection (1) of this section shall be in lieu of the corporation license tax imposed by KRS 136.070, the taxes imposed by KRS 141.040, and the taxes imposed by KRS 141.0401. It is the purpose and intent of the General Assembly to levy taxes on corporations organized pursuant to this chapter so that all such corporations will be taxed uniformly in a just and equitable manner in accordance with the provisions of the Constitution of the Commonwealth of Kentucky. The intent of this section is for the General Assembly to exercise the powers of classification and of taxation on property, franchises, and trades conferred by Section 171 of the Constitution of the Commonwealth.

(3) On or before June 1 of each year, the executive officer or officers of each corporation shall file with the commissioner of the Department of Revenue a full and accurate report of all income received or accrued during the taxable year, and also an accurate record of the legal deductions in the same calendar year to the end that the correct entire net income of the corporation may be determined. This report shall be in such form and contain such information as the commissioner of the Department of Revenue may specify. At the time of making such report by each corporation, the taxes levied by this section with respect to an excise tax on corporations organized pursuant to this chapter shall be paid to the commissioner of the Department of Revenue.

(4) The securities, evidences of indebtedness, and shares of the capital stock issued by the corporation established under the provisions of this chapter, their transfer, and income therefrom and deposits of financial institutions invested therein, shall at all times be free from taxation within the Commonwealth.

(5) Any stockholder, member, or other holder of any securities, evidences of indebtedness, or shares of the capital stock of the corporation who realizes a loss from the sale, redemption, or other disposition of any securities, evidences of indebtedness, or shares of the capital stock of the corporation, including any such loss realized on a partial or complete liquidation of the corporation, and who is not entitled to deduct such loss in computing any of such stockholder's, member's, or other holder's taxes to the Commonwealth shall be entitled to credit against any taxes subsequently becoming due to the Commonwealth from such stockholder,

member, or other holder, a percentage of such loss equivalent to the highest rate of tax assessed for the year in which the loss occurs upon mercantile and business corporations.

Effective: June 28, 2006

History: Amended 2006 (1st Extra. Sess.) Ky. Acts ch. 2, sec. 67, effective June 28, 2006. -- Amended 2005 Ky. Acts ch. 168, sec. 35, effective January 1, 2006. -- Created 1960 Ky. Acts ch. 73, sec. 18, effective March 21, 1960.

Legislative Research Commission Note (6/28/2006). 2006 (1st Extra Sess.) Ky. Acts ch. 2, sec. 73, provides that "unless a provision of this Act specifically applies to an earlier tax year, the provisions of this Act shall apply to taxable years beginning on or after January 1, 2007."

Legislative Research Commission Note (6/20/2005). 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.