

### **154.31-010 Definitions for subchapter.**

As used in this subchapter:

- (1) "Agreement" means an agreement entered into pursuant to KRS 154.31-030 between the authority and an approved company;
- (2) "Approved company" means an eligible company that has received approval from the authority for a sales and use tax incentive under this subchapter;
- (3) "Approved recovery amount" means the maximum sales and use tax incentive recoverable by an approved company as established in the agreement;
- (4) "Authority" means the Kentucky Economic Development Finance Authority;
- (5) "Department" means the Department of Revenue;
- (6) "Economic development project" means:
  - (a) 1. The acquisition or construction of a new facility; or  
2. The expansion or rehabilitation of an existing facility; and
  - (b) The installation and equipping of the facility;  
by an eligible company at a specific site in the Commonwealth to be used in a service or technology, manufacturing, or tourism attraction activity conducted by the approved company;
- (7) "Electronic processing" means the use of technology having electronic, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities, now in existence or later developed to perform a service or technology activity;
- (8) (a) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, or other legal entity that is primarily engaged in manufacturing or service or technology activities, or in operating or developing a tourism attraction.  
(b) "Eligible company" does not include any company whose primary activity is retail sales;
- (9) "Eligible expenses" means the amount expended for:
  - (a) Building and construction materials permanently incorporated as an improvement to real property as part of an economic development project;  
or
  - (b) Equipment used for research and development or electronic processing at an economic development project;  
if the Kentucky sales and use tax imposed by KRS Chapter 139 is paid on the purchase of the materials or equipment at the time of purchase;
- (10) (a) "Equipment" means tangible personal property which is subject to depreciation under Sections 167 and 168 of the Internal Revenue Code, including assets which are expensed under Section 179 of the Internal Revenue Code, and that is used in the operation of a business.  
(b) "Equipment" does not include any tangible personal property used to maintain, restore, mend, or repair machinery or equipment, consumable operating supplies, office supplies, or maintenance supplies;
- (11) (a) "Manufacturing" means to make, assemble, process, produce, or perform any activity that changes the form or conditions of raw materials and other property, and shall include any ancillary activity to the manufacturing

process, such as storage, warehousing, distribution, and related office facilities.

- (b) "Manufacturing" does not include any activity involving the performance of work classified by the divisions, including successor divisions, of mining in accordance with the "North American Industry Classification System," as revised by the United States Office of Management and Budget from time to time, or any successor publication;
- (12) "Project term" means the time for which an agreement shall be in effect. The project term shall be established in the agreement and shall not exceed seven (7) years;
- (13) (a) "Research and development" means experimental or laboratory activity that has as its ultimate goal the development of new products, the improvement of existing products, the development of new uses for existing products, or the development or improvement of methods for producing products.
- (b) "Research and development" does not include testing or inspection of materials or products for quality control purposes, efficiency surveys, management studies, consumer surveys or other market research, advertising or promotional activities, or research in connection with literary, historical, or similar projects; and
- (14) "Service or technology" means any nonretail activity using technology or providing a service, including but not limited to:
- (a) Administration and processing activities;
  - (b) Research and development;
  - (c) Telephone or Internet sales or services;
  - (d) Distribution or fulfillment of orders;
  - (e) Data processing; and
  - (f) Similar activities;
- provided to customer or affiliate entities primarily outside the Commonwealth and designed to serve a multistate, national, or international market.

**Effective:** June 26, 2009

**History:** Created 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 20, effective June 26, 2009.