

**154.34-120 Nonrefundable tax credit for reinvestment project by approved company.**

- (1) Except as provided in subsection (5) of this section, for taxable years beginning after December 31, 2009, an approved company may be eligible for a nonrefundable credit of up to one hundred percent (100%) of the Kentucky income tax imposed under KRS 141.020 or 141.040, and the limited liability entity tax imposed under KRS 141.0401 that would otherwise be owed by the approved company to the Commonwealth for the approved company's tax year, on the income, Kentucky gross profits, or Kentucky gross receipts of the approved company generated by or arising from the reinvestment project.
- (2) The credit allowed the approved company shall be applied against both the income tax imposed by KRS 141.020 or 141.040, and the limited liability entity tax imposed by KRS 141.0401, with credit ordering as provided in KRS 141.0205, for the tax year for which the tax return of the approved company is filed. Any credit not used in the year in which it was first available may be carried forward to subsequent years, provided that no credit may be carried forward beyond the term of the reinvestment agreement.
- (3) The approved company shall not be required to pay estimated tax payments as prescribed in KRS 141.042 on the Kentucky taxable income, Kentucky gross receipts, or Kentucky gross profits generated by or arising from the eligible project.
- (4) The credit provided by this section shall be determined as provided in KRS 141.415.
- (5)
  - (a) For an approved company which receives preliminary approval prior to February 1, 2010, the amount of incentives allowed in any year shall not exceed the lesser of the tax liability of the approved company related to the reinvestment project for that taxable year or the approved costs that have not yet been recovered.
  - (b) For an approved company which receives preliminary approval on or after February 1, 2010, the amount of incentives allowed in any year shall not exceed the lesser of the tax liability of the approved company related to the reinvestment project for that taxable year or twenty percent (20%) of the total amount of the approved costs.
  - (c) The incentives shall be allowed for each taxable year of the approved company during the term of the reinvestment agreement for which a tax return is filed by the approved company.

**Effective:** June 4, 2010

**History:** Amended 2010 (1st Extra. Sess.) Ky. Acts ch. 2, sec. 8, effective June 4, 2010.

-- Created 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 5, effective June 26, 2009.

**Legislative Research Commission Note** (6/26/2009). 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 7, provides that, notwithstanding the amendments contained in Sections 1 to 6 of that Act (which includes this statute), "all reinvestment projects preliminarily approved on or after the effective date of this Act shall not be eligible for final approval until July 1, 2010"; and 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 8, provides that, notwithstanding the amendments in Sections 1 to 6 of that Act or the

repeals in Section 114 of that Act, "all reinvestment projects preliminarily or finally approved prior to the effective date of this Act shall be governed by Subchapter 34 of KRS Chapter 154 as it existed prior to the effective date of this Act."