

**141.423 Nonrefundable credit for biodiesel producer, biodiesel blender, or renewable diesel producer.**

- (1) (a) A biodiesel producer, biodiesel blender, or renewable diesel producer shall be entitled to a nonrefundable tax credit against the taxes imposed by KRS 141.020 or 141.040 and KRS 141.0401 in an amount certified by the department under subsection (4) of this section. The credit rate shall be one dollar (\$1) per biodiesel gallon produced by a biodiesel producer, one dollar (\$1) per gallon of biodiesel used in the blending process by a biodiesel blender, and one dollar (\$1) per gallon of renewable diesel produced by a renewable diesel producer, unless the total amount of approved credit for all biodiesel producers, biodiesel blenders, and renewable diesel producers exceeds the annual biodiesel and renewable diesel tax credit cap. If the total amount of approved credit for all biodiesel producers, biodiesel blenders, and renewable diesel producers exceeds the annual biodiesel and renewable diesel tax credit cap, the department shall determine the amount of credit each biodiesel producer, biodiesel blender, and renewable diesel producer receives by multiplying the annual biodiesel and renewable diesel tax credit cap by a fraction, the numerator of which is the amount of approved credit for the biodiesel producer, biodiesel blender, and renewable diesel producer and the denominator of which is the total approved credit for all biodiesel producers, biodiesel blenders, and renewable diesel producers.
- (b) The credit allowed under paragraph (a) of this subsection shall be applied both to the income tax imposed under KRS 141.020 or 141.040 and to the limited liability entity tax imposed under KRS 141.0401, with the ordering of credits as provided in KRS 141.0205.
- (2) Re-blending of blended biodiesel shall not qualify for the credit provided under this section.
- (3) The credit shall not be carried forward to a return for any other period.
- (4) Each biodiesel producer, biodiesel blender, and renewable diesel producer eligible for the credit provided under subsection (1) of this section shall file a tax credit claim for biodiesel gallons produced or blended in this state or for renewable diesel produced in this state on forms prescribed by the department by the fifteenth day of the first month following the close of the preceding calendar year. The department shall determine the amount of the approved credit based on the amount of biodiesel produced, biodiesel blended, or renewable diesel produced in this state during the preceding calendar year and issue a credit certificate to the biodiesel producer, biodiesel blender, or renewable diesel producer by the fifteenth day of the fourth month following the close of the calendar year.
- (5) In the case of a biodiesel producer, biodiesel blender, or renewable diesel producer that has a fiscal year end for purposes of computing the tax imposed by KRS 141.020, 141.040, and 141.0401, the amount of approved credit shall be claimed on the return filed for the first fiscal year ending after the close of the preceding calendar year.

**Effective:** August 30, 2007

**History:** Amended 2007 (2d Extra. Sess.) Ky. Acts ch. 1, sec. 21, effective August 30, 2007. -- Amended 2006 (1st Extra. Sess.) Ky. Acts ch. 2, sec. 33, effective June 28, 2006. -- Created 2005 Ky. Acts ch. 168, sec. 137, effective March 18, 2005.

**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** (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). 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.