

### **144.110 Definitions for KRS 144.110 to 144.130.**

As used in KRS 144.110 to 144.130, unless the context requires otherwise:

- (1) "Air transportation facilities and related equipment" means any facilities, improvements, or equipment located at an airport and used, directly or indirectly, by the certificated air carrier or its customers in the carrier's business of transporting persons or property for hire. It includes exclusive space leased or owned by the certificated air carrier, common access areas, concession areas, aircraft ramps, taxiways, roadways, and vehicles which are part of an intra-airport train, subway, or automated fixed guideway transit system, but excludes any other ground vehicles and aircraft.
- (2) "Investment" means all costs which, consistent with the fundamental project scope, the certificated air carrier, airport operator, or any bond trustee pays, commits to pay, or incurs in any manner for the purchase or acquisition of additional air transportation facilities for which construction was started after the base period, and related equipment which was not located at an airport in this Commonwealth prior to the base period. Included are costs directly related to the design, construction, purchase, acquisition, lease, use, or financing of part or all of the additional air transportation facilities and related equipment whether owned, leased, or used by the carrier or its customers. Financing costs shall be limited to the principal amount of bonds or other obligations, capitalized interest, and any related issuance costs and expenses. The total investment shall not be offset or otherwise reduced if the certificated air carrier or airport operator is or subsequently becomes eligible for any reimbursement from either federal funds or other funds which may be available, including funds generated directly or indirectly from passenger facility charges. Likewise, any subsequent adjustment to the total investment provided in a carrier's contractual obligation shall not adversely affect the amount of the investment if the fundamental project scope is not reduced.
- (3) "Annual period" means the certificated air carrier's taxable year as provided in KRS 141.140.
- (4) "Base period" means the certificated air carrier's annual period ending in 1990.
- (5) "Contractually obligated" or "contractual obligation" means having entered into a written agreement or commitment to make an investment in air transportation facilities and related equipment in this state.
- (6) "Gross Kentucky real wage base" means the wages subject to Kentucky income tax and Kentucky income tax withholding pursuant to KRS Chapter 141, paid by a certificated air carrier during the base period adjusted to reflect changes in the United States Department of Labor's "Employment Cost Index - Wages and Salaries" for the transportation industry or, at the option of the carrier and upon verification by the Department of Revenue, the carrier's actual general wage increases, through the end of the annual period for which tax credit is claimed pursuant to KRS 144.125.
- (7) "Nonqualifying employees" means employees of the certificated air carrier whose employment with the carrier began after the base period; and

- (a) The employees perform essentially the same functions which, by contract or otherwise, were performed in this Commonwealth for the carrier by another company at any time after the base period; or
  - (b) Their employment continued in this Commonwealth as the result of the carrier's purchase, merger, or other acquisition of or combination with another company.
- (8) "Fundamental project scope" means the total project consisting of the additional air transportation facilities and related equipment as reflected in the carrier's application filed pursuant to KRS 144.130. It shall be measured by the carrier's increased capacity. Measures of increased capacity may include such factors as square footage, cost, employment, passenger or freight loadings or handling capabilities, number of aircraft departures, and other factors related to the increased investment.

**Effective:** June 20, 2005

**History:** Amended 2005 Ky. Acts ch. 85, sec. 554, effective June 20, 2005. -- Created 1991 (1st Extra. Sess.) Ky. Acts ch. 7, sec. 2, effective May 24, 1991.