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MEMORANDUM

TO: Interim Joint Committee on Appropriations and Revenue

FROM: Jennifer C. Hays, Committee Staff Administrator
Interim Joint Committee on Appropriations and Revenue

DATE: September 15, 2023

SUBJECT: Overview and Staff Summary of Confidential Taxpayer Information
Distilled Spirits Income Tax Credit
KRS 141.389

The purpose of this memorandum is to relay summary information to members of the Interim Joint Committee on Appropriations and Revenue related to the Distilled Spirits Tax Credit. The statute creating the tax credit was first enacted during the 2014 Regular Session of the Kentucky General Assembly in HB 445. The Department of Revenue is statutorily required to report certain taxpayer-specific information to the Interim Joint Committee on Appropriations and Revenue by September 1 of each year that the tax credit is claimed on a return. The Department's reports began with returns processed during the 2016-2017 fiscal year.

The taxpayer-specific information contained in the Department's annual report remains confidential and is not available for public use. Posting the full report to the Committee's website may violate KRS 131.190. Therefore, this staff summary is provided.

A taxpayer is allowed a nonrefundable income tax credit based on the property tax timely paid under KRS 132.180 on distilled spirits in a bonded warehouse or premises. The amount of tax credit allowed was initially phased-in over a five-year period, as follows:

1. 20% of the amount of tax timely paid, for taxable years beginning on or after January 1, 2015, and before December 31, 2015;
2. 40% of the amount of tax timely paid, for taxable years beginning on or after January 1, 2016, and before December 31, 2016;

3. 60% of the amount of tax timely paid, for taxable years beginning on or after January 1, 2017, and before December 31, 2017;
4. 80% of the amount of tax timely paid, for taxable years beginning on or after January 1, 2018, and before December 31, 2018; and
5. 100% of the amount of tax timely paid, for taxable years beginning on or after January 1, 2019, but prior to January 1, 2024¹.

In addition to making a timely payment of property tax on distilled spirits, the taxpayer is required to use the amount of tax credit for capital improvements at the premises of the distiller. A capital improvement means any costs associated with:

- Construction, replacement, or remodeling of warehouses or facilities;
- Purchases of barrels and pallets used for the storage and aging of distilled spirits in maturing warehouses;
- Acquisition, construction, or installation of equipment for the use in the manufacture, bottling, or shipment of distilled spirits;
- Addition or replacement of access roads or parking facilities; and
- Construction, replacement, or remodeling of facilities to market or promote tourism, including but not limited to a visitor's center.

The information presented below is related to taxable years beginning prior to January 1, 2024, and processed within the fiscal year listed.

Fiscal Year	Number of Taxpayers	Income Tax Credit Claimed	Limited Liability Entity Tax Credit Claimed	Total Tax Credit Claimed
FY 2016-2017	7	\$1,502,456	\$0	\$1,502,456
FY 2017-2018	6	2,049,312	148,723	2,198,035
FY 2018-2019	8	4,910,626	8,919	4,919,545
FY 2019-2020	9	711,496	16,112	727,608
FY 2020-2021	7	784,994	39,905	824,899
FY 2021-2022	7	228,010	46,491	274,501
FY 2022-2023	5	546,618	132,465	679,083

¹ For taxable years beginning on or after January 1, 2024, 2023 RS HB 5 sunset the current tax credit structure and included an election to:

- (a) Waive any accumulated amount of tax credits and receive a credit on up to 25,000 barrels of distilled spirits; or
- (b) Waive all future tax credits based on barrels and receive a refundable credit based on investments made and jobs created.