

#### **141.414 Computation of tax and credit.**

- (1) A qualified farming operation which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation or pass-through entity treated as a corporation for federal income tax purposes subject to tax under KRS 141.040 shall:
  - (a)
    1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income or taxable net income, including income from the qualified farming operation's participation in a networking project.
    2. Compute the limited liability entity tax imposed under KRS 141.0401, including Kentucky gross profits or Kentucky gross receipts from the qualified farming operation's participation in a networking project; and
    3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph;
  - (b)
    1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 applies on net income or taxable net income, excluding net income attributable to the qualified farming operation's participation in a networking project;
    2. Using the same method used under paragraph (a)2. of this subsection, compute the limited liability entity tax imposed under KRS 141.0401, excluding Kentucky gross profits or Kentucky gross receipts from the qualified farming operation's participation in a networking project; and
    3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph; and
  - (c) Be entitled to a tax credit in the amount by which the tax computed under paragraph (a)3. of this subsection exceeds the tax computed under paragraph (b)3. of this subsection. The credit shall not exceed the farming operation's approved costs, as defined in KRS 141.410.
- (2) Notwithstanding any other provisions of this chapter, a qualified farming operation which is a pass-through entity not subject to the tax imposed by KRS 141.040 or trust not subject to the tax imposed by KRS 141.040 shall be subject to income tax on the net income attributable to its participation in a networking project at the rates provided in KRS 141.020, and the amount of the tax credit shall be the same as the amount of the tax computed in this subsection. The credit shall not exceed the farming operation's approved costs, as defined in KRS 141.410. If the tax computed in this subsection exceeds the tax credit, the difference shall be paid by the pass-through entity or trust at the times provided by KRS 141.160 for filing the returns.
- (3) Notwithstanding any other provisions of this chapter, the net income subject to tax and the tax credit determined under subsection (2) of this section shall be excluded in determining each partner's, member's, shareholder's, or beneficiary's distributive

share of net income or credit of a pass-through entity or trust.

- (4) If the networking entity is a separate facility:
  - (a) Net income attributable to the project for the purposes of subsections (1), (2), and (3) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the project and overhead expenses apportioned to the facility; and
  - (b) Kentucky gross receipts or Kentucky gross profits attributable to the project for the purposes of subsection (1) of this section shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility.
- (5) If the networking project is an expansion to a previously existing farming operation:
  - (a) Net income attributable to the entire operation shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the farming operation's participation in the networking project and overhead expenses apportioned to the networking project, and the net income attributable to the networking project for the purposes of subsections (1), (2), and (3) of this section shall be determined by apportioning the separate accounting net income of the entire networking project to the networking project by a formula approved by the Department of Revenue; and
  - (b) Kentucky gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility, and Kentucky gross receipts or Kentucky gross profits attributable to the economic development project for the purposes of subsection (1) of this section shall be determined by apportioning the separate accounting Kentucky gross receipts or Kentucky gross profits of the entire facility to the economic development project by a formula approved by the Department of Revenue.
- (6) If an approved company can show to the satisfaction of the Department of Revenue that the nature of the operations and activities of the approved farming operation are such that it is not practical to use the separate accounting method to determine the net income, Kentucky gross receipts, or Kentucky gross profits from the networking project, the approved farming operation shall determine net income, Kentucky gross receipts, or Kentucky gross profits from its participation in the networking project using an alternative method approved by the Department of Revenue.
- (7) The Department of Revenue may promulgate administrative regulations pursuant to KRS Chapter 13A and require the filing of forms designed by the Department of Revenue necessary to effectuate KRS 141.0101 and KRS 141.410 to 141.414 and the allowable income tax credit which an approved farming operation may retain under the provisions of KRS 141.412 and this section.

**Effective:** April 27, 2018

**History:** Amended 2018 Ky. Acts ch. 171, sec. 92, effective April 14, 2018; and ch. 207, sec. 92, effective April 27, 2018. -- Amended 2006 (1st Extra. Sess.) Ky. Acts ch. 2, sec. 30, effective June 28, 2006. -- Amended 2006 Ky. Acts ch. 252, Pt. XIII, sec. 12, effective April 25, 2006. -- Amended 2005 Ky. Acts ch. 85, sec. 510, effective June 20, 2005; and ch. 168, sec. 30, effective March 18, 2005. -- Created 1994 Ky. Acts ch. 390, sec. 18, effective July 15, 1994.

**Legislative Research Commission Note (4/27/2018).** This statute was amended by 2018 Ky. Acts chs. 171 and 207, which do not appear to be in conflict and have been codified together.

**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.