

141.068 Definitions -- Determination of tax credits under KRS 154.20-258.

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Authority" means the Kentucky Economic Development Finance Authority as created pursuant to KRS 154.20-010;
 - (b) "Investor" has the same meaning as set forth in KRS 154.20-254;
 - (c) "Investment fund" has the same meaning as set forth in KRS 154.20-254;
 - (d) "Investment fund manager" has the same meaning as set forth in KRS 154.20-254; and
 - (e) "Tax credit" means the credits provided for in KRS 154.20-258.
- (2)
 - (a) An investor which is an individual or a corporation shall be entitled to the credit certified by the authority under KRS 154.20-258 against the tax due computed as provided by KRS 141.020 or 141.040, respectively, and against the tax imposed by KRS 141.0401, with the ordering of credits as provided in KRS 141.0205.
 - (b) The amount of the certified tax credit that may be claimed in any tax year of the investor shall be determined in accordance with the provisions of KRS 154.20-258.
- (3)
 - (a) In the case of an investor that is a pass-through entity not subject to the tax imposed by KRS 141.040, the amount of the tax credit certified by the authority under KRS 154.20-258 shall be taken by the pass-through entity against the limited liability entity tax imposed by KRS 141.0401, and shall also be apportioned among the partners, members, or shareholders at the same ratio as the partners', members', or shareholders' distributive shares of income are determined for the tax year during which the amount of the credit is certified by the authority.
 - (b) The amount of the tax credit apportioned to each partner, member, or shareholder that may be claimed in any tax year of the partner, member, or shareholder shall be determined in accordance with the provisions of KRS 154.20-258.
- (4)
 - (a) In the case of an investor that is a trust not subject to the tax imposed by KRS 141.040, the amount of the tax credit certified by the authority under KRS 154.20-258 shall be apportioned to the trust and the beneficiaries on the basis of the income of the trust allocable to each for the tax year during which the tax credit is certified by the authority.
 - (b) The amount of tax credit apportioned to each trust or beneficiary that may be claimed in any tax year of the trust or beneficiary shall be determined in accordance with the provisions of KRS 154.20-258.
- (5) The Department of Revenue shall promulgate administrative regulations under KRS Chapter 13A to adopt procedures for the administration of the credits authorized by KRS 154.20-258.
- (6) In order for the General Assembly to evaluate the fulfillment of the purposes stated in KRS 154.20-250, the department shall work jointly with the Cabinet for

Economic Development to provide a report detailing each investment fund agreement entered into by the cabinet. The report shall be submitted to the Interim Joint Committee on Appropriations and Revenue on or before May 1, 2019, and contain the following information:

- (a) The date the agreement was entered into by the cabinet with the investment fund manager;
 - (b) The name of the investment fund manager and the name of the investment fund;
 - (c) The primary business location of the investment fund;
 - (d) The total number of investment funds, the number of investors for each fund, the amount of committed cash contributions to each investment fund, and the total qualified investments made by each investment fund, including initial and subsequent investments, for each small business;
 - (e) A list detailing each investor within each investment fund, the amount of investment made by each investor, and the amount of tax credit awarded each investor;
 - (f) Whether the authority has suspended the availability of any credits, terminated any agreements, or pursued any other remedy because the investment fund manager failed to comply with the agreement;
 - (g) By taxable year, the amount of tax credit claimed by each investor by type of tax, including income tax, any taxes imposed on financial institutions, or insurance taxes;
 - (h) The number of small businesses that are active, inactive, or closed that have received investments from an investment fund;
 - (i) The number and location of each new small business established or expanded;
 - (j) The number and location of each new job created;
 - (k) The number of new products and technologies created; and
 - (l) The total amount of tax credit awarded for each fiscal year.
- (7) If either the department or the Cabinet for Economic Development does not currently have the data to fulfill the reporting requirement of subsection (6) of this section, the department and the cabinet shall work jointly to obtain the data in an expedient manner to provide the report on or before the May 1, 2019, report date.

Effective: April 27, 2018

History: Amended 2018 Ky. Acts ch. 171, sec. 96, effective April 14, 2018; and ch. 207, sec. 96, effective April 27, 2018. -- Amended 2016 Ky. Acts ch. 82, sec. 34, effective July 15, 2016. -- Amended 2006 (1st Extra. Sess.) Ky. Acts ch. 2, sec. 18, effective June 28, 2006. -- Amended 2005 Ky. Acts ch. 85, sec. 477, effective June 20, 2005; and ch. 168, sec. 10, effective March 18, 2005. -- Amended 2002 Ky. Acts ch. 230, sec. 6, effective July 15, 2002. -- Created 1998 Ky. Acts ch. 414, sec. 16, effective July 15, 1998.

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.