

### **141.0205 Priority of application and use of tax credits.**

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of the credits shall be determined as follows:

- (1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:
  - (a) The limited liability entity tax credit permitted by KRS 141.0401;
  - (b) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and 154.12-2088;
  - (c) The qualified farming operation credit permitted by KRS 141.412;
  - (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
  - (e) The health insurance credit permitted by KRS 141.062;
  - (f) The tax paid to other states credit permitted by KRS 141.070;
  - (g) The credit for hiring the unemployed permitted by KRS 141.065;
  - (h) The recycling or composting equipment credit permitted by KRS 141.390;
  - (i) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
  - (j) The research facilities credit permitted by KRS 141.395;
  - (k) The employer High School Equivalency Diploma program incentive credit permitted under KRS 151B.402;
  - (l) The voluntary environmental remediation credit permitted by KRS 141.418;
  - (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
  - (n) The clean coal incentive credit permitted by KRS 141.428;
  - (o) The ethanol credit permitted by KRS 141.4242;
  - (p) The cellulosic ethanol credit permitted by KRS 141.4244;
  - (q) The energy efficiency credits permitted by KRS 141.436;
  - (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
  - (s) The Endow Kentucky credit permitted by KRS 141.438;
  - (t) The New Markets Development Program credit permitted by KRS 141.434;
  - (u) The distilled spirits credit permitted by KRS 141.389;
  - (v) The angel investor credit permitted by KRS 141.396;
  - (w) The film industry credit permitted by KRS 141.383 for applications approved on or after April 27, 2018, but before January 1, 2022;
  - (x) The inventory credit permitted by KRS 141.408; and
  - (y) The renewable chemical production credit permitted by KRS 141.4231.
- (2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020

shall be taken in the following order:

- (a) The individual credits permitted by KRS 141.020(3);
  - (b) The credit permitted by KRS 141.066;
  - (c) The tuition credit permitted by KRS 141.069;
  - (d) The household and dependent care credit permitted by KRS 141.067;
  - (e) The income gap credit permitted by KRS 141.066; and
  - (f) The Education Opportunity Account Program tax credit permitted by KRS 141.522.
- (3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual withholding tax credit permitted by KRS 141.350;
  - (b) The individual estimated tax payment credit permitted by KRS 141.305;
  - (c) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and 171.397(1)(b);
  - (d) The film industry tax credit permitted by KRS 141.383 for applications approved prior to April 27, 2018, or on or after January 1, 2022;
  - (e) The development area tax credit permitted by KRS 141.398; and
  - (f) The decontamination tax credit permitted by KRS 141.419.
- (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.
- (5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:
- (a) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and 154.12-2088;
  - (b) The qualified farming operation credit permitted by KRS 141.412;
  - (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
  - (d) The health insurance credit permitted by KRS 141.062;
  - (e) The unemployment credit permitted by KRS 141.065;
  - (f) The recycling or composting equipment credit permitted by KRS 141.390;
  - (g) The coal conversion credit permitted by KRS 141.041;
  - (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;
  - (i) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
  - (j) The research facilities credit permitted by KRS 141.395;
  - (k) The employer High School Equivalency Diploma program incentive credit

permitted by KRS 151B.402;

- (l) The voluntary environmental remediation credit permitted by KRS 141.418;
  - (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
  - (n) The clean coal incentive credit permitted by KRS 141.428;
  - (o) The ethanol credit permitted by KRS 141.4242;
  - (p) The cellulosic ethanol credit permitted by KRS 141.4244;
  - (q) The energy efficiency credits permitted by KRS 141.436;
  - (r) The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by KRS 141.437;
  - (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
  - (t) The railroad expansion credit permitted by KRS 141.386;
  - (u) The Endow Kentucky credit permitted by KRS 141.438;
  - (v) The New Markets Development Program credit permitted by KRS 141.434;
  - (w) The distilled spirits credit permitted by KRS 141.389;
  - (x) The film industry credit permitted by KRS 141.383 for applications approved on or after April 27, 2018, but before January 1, 2022;
  - (y) The inventory credit permitted by KRS 141.408;
  - (z) The renewable chemical production tax credit permitted by KRS 141.4231; and
  - (aa) The Education Opportunity Account Program tax credit permitted by KRS 141.522.
- (6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable credits shall be taken in the following order:
- (a) The corporation estimated tax payment credit permitted by KRS 141.044;
  - (b) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and 171.397(1)(b);
  - (c) The film industry tax credit permitted by KRS 141.383 for applications approved prior to April 27, 2018, or on or after January 1, 2022; and
  - (d) The decontamination tax credit permitted by KRS 141.419.

**Effective:** July 14, 2022

**History:** Amended 2022 Ky. Acts ch. 212, sec. 54, effective July 14, 2022. -- Amended 2021 Ky. Acts ch. 156, sec. 31, effective June 29, 2021; ch. 167, sec. 20, effective June 29, 2021; and ch. 203, sec. 9, effective June 29, 2021. -- Amended 2020 Ky. Acts ch. 91, sec. 20, effective April 15, 2020. -- Amended 2019 Ky. Acts ch. 146, sec. 9, effective June 27, 2019; and ch. 151, sec. 79, effective June 27, 2019. -- Amended 2018 Ky. Acts ch. 171, sec. 105, effective April 14, 2018; ch. 199, sec. 5, effective July 14, 2018; and ch. 207, sec. 105, effective April 27, 2018. -- Amended 2017 Ky. Acts ch. 63, sec. 10, effective June 29, 2017. -- Amended 2014 Ky. Acts ch. 102, sec. 17, effective July 15, 2014. -- Amended 2013 Ky. Acts ch. 59, sec. 46, effective June 25, 2013; and ch. 131, sec. 33, effective June 25, 2013. -- Amended 2010 (1st Extra. Sess.) Ky. Acts ch. 2, sec. 15, effective June 4, 2010. -- Repealed and reenacted 2010 Ky. Acts ch. 5, sec. 14, effective February 25, 2010 -- Amended 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 30, effective June 26, 2009. -- Amended

2008 Ky. Acts ch. 139, sec. 14, effective July 15, 2008. -- Amended 2007 (2d Extra. Sess.) Ky. Acts ch. 1, sec. 27, effective August 30, 2007. -- Amended 2007 Ky. Acts ch. 91, sec. 7, effective March 23, 2007. -- Amended 2006 (1st Extra. Sess.) Ky. Acts ch. 2, sec. 2, effective June 28, 2006. -- Amended 2006 Ky. Acts ch. 6, sec. 13, effective March 4, 2006. -- Amended 2005 Ky. Acts ch. 168, sec. 6, effective March 18, 2005. -- Amended 2002 Ky. Acts ch. 230, sec. 7, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 320, sec. 2, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 414, sec. 20, effective July 15, 1998; and ch. 499, sec. 6, effective July 15, 1998. -- Created 1994 Ky. Acts ch. 57, sec. 1, effective July 15, 1994.

**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 (3/6/2006).** 2006 Ky. Acts ch. 6, sec. 30, provides that this section applies retroactively for taxable years beginning on or after January 1, 2005.

**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 (7/15/1994).** This statute applies "to taxable years beginning after December 31, 1993." 1994 Ky. Acts ch. 57, sec. 4.