

**224.1-420 Decontamination tax credit -- Requirements -- Application.**

- (1) For purposes of this section:
  - (a) "Assignor" means the recipient of the tax credit who may assign, sell, or transfer, in whole or in part, the tax credit to any other taxpayer;
  - (b) "Department" means the Department of Revenue;
  - (c) "Qualifying expenditures" means up to one hundred percent (100%) of the costs of materials, supplies, equipment, labor, professional engineering, consulting and architectural fees, permitting fees and expenses, demolition, asbestos abatement, and direct utility charges for voluntarily performing activities to decontaminate or remediate any preexisting hazardous substance, pollutant or contaminant, or petroleum and petroleum products as defined in KRS 224.60-115, including but not limited to the costs of performing operation and maintenance of the remediation systems and equipment at the qualifying decontamination property beyond the year in which the systems and equipment are built and installed and the costs of performing the remediation activities following the taxpayer's tax year in which the systems and equipment were first put into use at the qualifying decontamination property; and
  - (d) "Qualifying decontamination property" includes qualifying voluntary environmental remediation property as defined in KRS 141.418 and shall also include real property under the Brownfield Redevelopment Program as established in KRS 224.1-415, if the guidelines in KRS 141.418(1)(e) are met.
- (2) There is hereby created a decontamination tax credit.
- (3)
  - (a) For taxable years beginning on or after January 1, 2022, but before January 1, 2032, a taxpayer making a qualifying expenditure at a qualifying decontamination property shall be allowed a refundable credit against the taxes imposed by KRS 141.020 or 141.040 and 141.0401, with the ordering of credits as provided in KRS 141.0205.
  - (b) The credit shall be equal to the amount of expenditures made by the taxpayer for the decontamination or remediation of the qualifying decontamination property.
  - (c) The total credit awarded per qualifying decontamination property shall not exceed thirty million dollars (\$30,000,000).
  - (d) The amount of credit to be taken in a taxable year shall not exceed twenty-five percent (25%) of the total amount of approved credit.
  - (e) A total of no more than thirty million dollars (\$30,000,000) of tax credit shall be awarded in fiscal year 2022-2023 and fiscal year 2023-2024.
- (4) The qualifying expenditures:
  - (a) Shall be in accordance with a corrective action plan approved by the cabinet under KRS 224.1-400, 224.1-405, or 224.60-135; and
  - (b) May include up to one hundred percent (100%) of the costs of demolition that are not directly part of the decontamination or remediation activities, provided that the demolition is:

1.
    - a. On the property where the decontamination or remediation activities are occurring; or
    - b. On adjacent property, so long as it is independently qualified as abandoned or underutilized;
  2. Necessary to accomplish the planned use of the property where the decontamination or remediation activities are occurring; and
  3. Part of a redevelopment plan approved by the municipal or county government and the cabinet.
- (5) The decontamination or remediation shall not be financed through a public grant program or the petroleum storage tank environmental assurance fund under KRS 224.60-115.
- (6) The amount of reasonably anticipated total qualifying expenditures associated with the qualifying decontamination property shall equal or exceed six million dollars (\$6,000,000).
- (7)
  - (a) The qualifying decontamination property shall be located:
    1. Within one-half (1/2) mile of a tax increment financing development area; or
    2. In a census tract that qualifies for the use of the Kentucky New Markets Development Program tax credit created under KRS 141.434.
  - (b) The amount of reasonably anticipated capital investment in the qualifying decontamination property shall exceed thirty million dollars (\$30,000,000).
- (8)
  - (a) Beginning on or after January 1, 2022, a taxpayer seeking the credit established in this section shall file an application with the cabinet not less than thirty (30) days prior to the date the qualifying expenditures will begin, and on a form as prescribed by the cabinet for determination of eligibility.
  - (b) The application shall include supporting documentation, including:
    1. The name, address, and taxpayer identification number of the owner of the qualifying decontamination property;
    2. Detailed description of the property;
    3. The proposed start and completion dates for the project; and
    4. The projected amount of total capital investment and qualifying expenditures associated with the property.
  - (c) Taxpayers awarded a credit under this subsection shall submit receipts annually to the cabinet verifying the qualifying expenditures claimed.
  - (d) The cabinet shall make a determination of the maximum credit available for the qualifying decontamination property and provide notification of the awarded credit amount to the department and taxpayer within sixty (60) days of the date on which the application was filed.
  - (e) Any taxpayer approved for credit under this section shall not also claim or apply for any other credit related to the decontamination or remediation of the same qualifying decontamination property.

**Effective:** March 24, 2023

**History:** Amended 2023 Ky. Acts ch. 92, sec. 27, effective March 24, 2023. -- Created 2022 Ky. Acts ch. 212, sec. 53, effective July 14, 2022.