

141.383 Refundable tax credit for motion picture or entertainment production expenses -- Reporting.

- (1) As used in this section:
 - (a) "Above-the-line production crew" has the same meaning as in KRS 154.61-010;
 - (b) "Approved company" has the same meaning as in KRS 154.61-010;
 - (c) "Authority" has the same meaning as in KRS 154.61-010;
 - (d) "Below-the-line production crew" has the same meaning as in KRS 154.61-010;
 - (e) "Continuous film production" has the same meaning as in KRS 154.61-010;
 - (f) "Loan-out entity" has the same meaning as in KRS 154.61-010;
 - (g) "Qualifying expenditure" has the same meaning as in KRS 154.61-010;
 - (h) "Qualifying payroll expenditure" has the same meaning as in KRS 154.61-010;
 - (i) "Secretary" has the same meaning as in KRS 154.61-010; and
 - (j) "Tax incentive agreement" has the same meaning as KRS 154.61-010.
- (2)
 - (a) There is hereby created a tax credit against the tax imposed under KRS 141.020 or 141.040 and 141.0401, with the ordering of credits as provided in KRS 141.0205.
 - (b) The incentive available under paragraph (a) of this section is:
 1. A refundable credit for applications approved prior to April 27, 2018;
 2. A nonrefundable and nontransferable credit for applications approved on or after April 27, 2018, but before January 1, 2022; and
 3. A refundable credit for applications approved on or after January 1, 2022, if the provisions of paragraph (c) of this subsection are met.
 - (c)
 1. The total tax incentive approved under KRS 154.61-020 shall be limited to:
 - a. One hundred million dollars (\$100,000,000) for calendar year 2018 and each calendar year through the calendar year 2021;
 - b. Seventy-five million dollars (\$75,000,000) for the calendar year 2022 and each calendar year thereafter; and
 - c. Beginning with calendar year 2024, the amount in subdivision b. of this subparagraph shall be allocated accordingly:
 - i. Twenty-five million dollars (\$25,000,000) shall be allocated for all approved companies with a continuous film production; and
 - ii. On the first day of July of each calendar year, any unused balance allocated under subpart i. of this subdivision for continuous film productions shall be made available for all approved companies with a motion picture or entertainment production.

2. To qualify for the refundable credit, all applicants shall:
 - a. Begin filming or production in Kentucky within six (6) months of approval by the authority; and
 - b. Complete filming or production in Kentucky within two (2) years of their production start date.
- (3) An approved company may receive a refundable tax credit if:
 - (a) The department has received notification from the authority that the approved company has satisfied all requirements of KRS 154.61-020 and 154.61-030; and
 - (b) The approved company has provided a detailed cost report and sufficient documentation to the authority, which has been forwarded by the authority to the department, that:
 1. The purchases of qualifying expenditures were made after the execution of the tax incentive agreement; and
 2. The approved company or loan-out entity has withheld income tax as required by KRS 141.310 on all qualified payroll expenditures, and remitted and certified the withheld amount to the department.
- (4) Interest shall not be allowed or paid on any refundable credits provided under this section.
- (5) The department may promulgate administrative regulations under KRS Chapter 13A to administer this section.
- (6) On or before September 1, 2010, and on or before each September 1 thereafter, for the immediately preceding fiscal year, the department shall report to the authority and the Interim Joint Committee on Appropriations and Revenue the names of the approved companies and the amounts of refundable income tax credit claimed.
- (7) No later than September 1, 2021, and by November 1 every four (4) years thereafter, the department and the Cabinet for Economic Development shall cooperatively provide historical data related to the tax credit allowed in this section and KRS 154.61-020 and 154.61-030, including data items beginning with tax credits claimed for taxable years beginning on or after January 1, 2018:
 - (a) The name of the taxpayer claiming the tax credit;
 - (b) The date that the application was approved and the date the filming or production was completed;
 - (c) The taxable year in which the taxpayer claimed the tax credit;
 - (d) The total amount of the tax credit, including any amount denied, any amount applied against a tax liability, any amount refunded, and any amount remaining that may be claimed on a return filed in the future;
 - (e) Whether the taxpayer is a Kentucky-based company as defined in KRS 154.61-010;
 - (f) Whether the taxpayer films or produces a:
 1. Feature-length film, television program, or industrial film;
 2. National touring production of a Broadway show; or

3. Documentary;
- (g) Whether the filming or production was performed:
 1. Entirely in an enhanced county; or
 2. In whole or in part in any Kentucky county other than in an enhanced incentive county;
 - (h) The amount of qualifying expenditures incurred by the taxpayer;
 - (i) The amount of qualifying payroll expenditures paid to:
 1. Resident below-the-line crew; and
 2. Nonresident below-the-line production crew;including the number of crew members in each category;
 - (j) The amount of qualifying payroll expenditures paid to:
 1. Resident above-the-line crew; and
 2. Nonresident above-the-line crew;including the number of crew members in each category; and
 - (k) A brief description of the type of motion picture or entertainment production project.
- (8) The information required to be reported under this section shall not be considered confidential taxpayer information and shall not be subject to KRS Chapter 131 or any other provisions of the Kentucky Revised Statutes prohibiting disclosure or reporting of information.

Effective: June 29, 2023

History: Amended 2023 Ky. Acts ch. 75, sec. 5, effective June 29, 2023. -- Amended 2021 Ky. Acts ch. 156, sec. 16, effective June 29, 2021. -- Amended 2020 Ky. Acts ch. 91, sec. 15, effective April 15, 2020. -- Amended 2018 Ky. Acts ch. 171, sec. 85, effective April 14, 2018; and ch. 207, sec. 85, effective April 27, 2018. -- Amended 2014 Ky. Acts ch. 102, sec. 13, effective July 15, 2014. -- Created 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 47, effective June 26, 2009.

Legislative Research Commission Note (4/15/2020). 2020 Ky. Acts ch. 91, sec. 76 provides that the changes made to this statute in Section 15 of that Act apply to taxable years beginning on or after January 1, 2019.