

154.34-010 Definitions for subchapter.

As used in this subchapter:

- (1) "Affiliate" has the same meaning as in KRS 154.32-010;
- (2) "Agribusiness" has the same meaning as in KRS 154.32-010;
- (3) "Alternative fuel production" has the same meaning as in KRS 154.32-010;
- (4) "Approved company" means an eligible company approved under KRS 154.34-070 for a reinvestment project;
- (5) "Approved costs" means the eligible equipment and related costs approved by the authority that may be recovered by an approved company through the incentives authorized by this subchapter;
- (6) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;
- (7) "Capital lease" has the same meaning as in KRS 154.32-010;
- (8) "Carbon dioxide or hydrogen transmission pipeline" has the same meaning as in KRS 154.32-010;
- (9) "Coal severing and processing" means activities resulting in an eligible company being subject to the tax imposed by KRS Chapter 143;
- (10) "Commonwealth" means the Commonwealth of Kentucky;
- (11) "Department" means the Department of Revenue;
- (12) (a) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, or any other entity:
 1. Employing or intending to employ a minimum of twenty-five (25) persons on a full-time bases; and
 2. Engaged in or planning to engage in one (1) or more of the following activities:
 - a. Headquarter operations;
 - b. Manufacturing;
 - c. Agribusiness;
 - d. Nonretail service or technology;
 - e. Coal severing and processing;
 - f. Alternative fuel, gasification, energy-efficient alternative fuel, or renewable energy production;
 - g. Carbon dioxide or hydrogen transmission pipeline operations; or
 - h. Hospital operations;at the same facility located and operating within the Commonwealth on a permanent basis for a reasonable period of time preceding the request for approval of a reinvestment project by the authority, including facilities where operations have been temporarily suspended and which meet the standards under KRS 154.34-070 and related administrative regulations promulgated by the authority.

- (b) "Eligible company" does not include any company for which the primary activity to be conducted within the Commonwealth is:
 - 1. Forestry;
 - 2. Fishing;
 - 3. The provision of utilities;
 - 4. Construction;
 - 5. Wholesale trade;
 - 6. Retail trade;
 - 7. Real estate;
 - 8. Rental and leasing;
 - 9. Educational services;
 - 10. Accommodation and food services; or
 - 11. Public administration services;
- (13) (a) "Eligible equipment and related costs" means:
 - 1. Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, rehabilitation, and installation of a reinvestment project;
 - 2. The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, equipping, rehabilitation, and installation of a reinvestment project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;
 - 3. All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, equipping, rehabilitation, and installation of a reinvestment project;
 - 4. All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, rehabilitation, and installation of a reinvestment project;
 - 5. All costs required for the installation of utilities, including but not limited to water, sewer, sewer treatment, gas, electricity, communications, and access to transportation, and including off-site construction of the facilities paid for by the approved company; and
 - 6. All other costs of a nature comparable to those described in this paragraph.
- (b) "Eligible equipment and related costs" does not include costs related to the replacement or repair of existing machinery or equipment resulting from normal wear and usage of the machinery or equipment;
- (14) "Energy-efficient alternative fuel production" has the same meaning as in KRS

154.32-010;

- (15) "Enhanced incentive counties" has the same meaning as in KRS 154.32-010;
- (16) "Equipment" means manufacturing machinery equipment, computers, furnishings, fixtures, and other assets installed by the approved company as part of the reinvestment project;
- (17) "Final approval" means the action taken by the authority designating a preliminarily approved eligible company as an approved company to receive incentives under this subchapter;
- (18) "Full-time employee" means a person who:
 - (a) Is required to work a minimum of thirty-five (35) hours per week; or
 - (b) Works remotely away from the reinvestment project if all the following conditions are met:
 - 1. Is a Kentucky resident;
 - 2. Whose job was created or retained as a result of the reinvestment project; and
 - 3. Whose payroll is expensed to the reinvestment project;
- (19) "Gasification production" has the same meaning as in KRS 154.32-010;
- (20) "Headquarters" has the same meaning as in KRS 154.32-010;
- (21) "Hospital" has the same meaning as in KRS 154.32-010;
- (22) "Incentives" means the Kentucky tax credit as prescribed in this subchapter;
- (23) "Kentucky gross profits" has the same meaning as in KRS 141.0401;
- (24) "Kentucky gross receipts" has the same meaning as in KRS 141.0401;
- (25) "Leased project" has the same meaning as in KRS 154.32-010;
- (26) "Manufacturing" has the same meaning as in KRS 154.32-010;
- (27) "Nonretail service or technology" has the same meaning as in KRS 154.32-010;
- (28) "Personal protective equipment" has the same meaning as in KRS 154.32-010;
- (29) "Preliminary approval" means the action taken by the authority designating an eligible company as a preliminarily approved company;
- (30) "Reinvestment agreement" means the agreement entered into pursuant to KRS 154.34-080 between the authority and an approved company with respect to a reinvestment project;
- (31) "Reinvestment project" means:
 - (a) A reinvestment in the facility of an eligible company and in the full-time employees of an eligible company through the acquisition, construction, and installation of new equipment and, with respect thereto, the construction, rehabilitation, and installation of improvements to facilities necessary to house the new equipment, including surveys; installation of utilities, including water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; or off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located;
 - (b) The expenditure of at least one million dollars (\$1,000,000) in eligible

equipment and related costs for leased projects and at least two million five hundred thousand dollars (\$2,500,000) in eligible equipment and related costs for all other reinvestment projects; and

- (c) A reinvestment in a facility in order to allow for the production of vital medications, personal protective equipment, or equipment necessary to produce personal protective equipment;
- (32) "Renewable energy production" has the same meaning as in KRS 154.32-010; and
- (33) "Vital medications" has the same meaning as in KRS 154.32-010.

Effective: June 29, 2023

History: Amended 2023 Ky. Acts ch. 75, sec. 26, effective June 29, 2023. -- Amended 2021 Ky. Acts ch. 185, sec. 122, effective June 29, 2021. -- Amended 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 1, effective June 26, 2009. -- Amended 2006 (1st Extra. Sess.) Ky. Acts ch. 2, sec. 61, effective June 28, 2006. -- Amended 2006 Ky. Acts ch. 149, sec. 221, effective July 12, 2006. -- Created 2003 Ky. Acts ch. 148, sec. 1, effective June 24, 2003.

Legislative Research Commission Note (6/26/2009). 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 7, provides that, notwithstanding the amendments contained in Sections 1 to 6 of that Act (which includes this statute), "all reinvestment projects preliminarily approved on or after the effective date of this Act shall not be eligible for final approval until July 1, 2010"; and 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 8, provides that, notwithstanding the amendments in Sections 1 to 6 of that Act or the repeals in Section 114 of that Act, "all reinvestment projects preliminarily or finally approved prior to the effective date of this Act shall be governed by Subchapter 34 of KRS Chapter 154 as it existed prior to the effective date of this Act."

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."