

AN ACT relating to the first-time homebuyer income tax credit.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "First-time homebuyer" means any individual having no ownership interest in a principal residence during the three (3) year period prior to the purchase of a principal residence;

(b) "Principal residence" has the same meaning as when used in 26 U.S.C. sec. 121, relating to the sale of a principal residence;

(c) "Purchase" means:

1. Any acquisition of existing property if:

a. The property is not acquired from a related person; and

b. The basis of the property is not determined:

i. In whole or in part by reference to the adjusted basis of the property in the hands of the person from whom the property is purchased; or

ii. Under 26 U.S.C. sec. 1014(a), relating to property acquired from a decedent; and

occurs at the time a settlement document is executed between a buyer and a seller; or

2. a. The construction of new property; and

b. Occurs on the date the taxpayer first occupies the newly constructed property as a principal residence;

(d) "Purchase price" means the adjusted basis of the principal residence on the date the residence is purchased; and

(e) "Related person" includes:

1. The spouse of the taxpayer;
  2. Any ancestor or lineal descendant of the taxpayer or the taxpayer's spouse; and
  3. Any other entity in which a twenty percent (20%) or more ownership is held by:
    - a. The taxpayer or the taxpayer's spouse; or
    - b. Any ancestor or lineal descendant of the taxpayer or the taxpayer's spouse.
- (2) In the case of an individual who is a first-time homebuyer of a principal residence in Kentucky during a taxable year beginning on or after January 1, 2015, but before January 1, 2019, there shall be allowed as a nonrefundable credit against the tax imposed by KRS 141.020, with the ordering of credits as provided in Section 2 of this Act, an amount equal to one percent (1%) of the purchase price of the residence, not to exceed eight hundred dollars (\$800), except that:
- (a) In the case of a married individual filing a separate return, the amount of credit shall not exceed four hundred dollars (\$400); and
  - (b) In the case of two (2) or more unmarried individuals who purchase a principal residence, the amount of the credit shall be allocated among the individuals in such manner prescribed by administrative regulations promulgated by the department, and the total of the amount of credits allowed to all the individuals shall not exceed eight hundred dollars (\$800).
- (3) No credit shall be allowed under subsection (2) of this section:
- (a) Unless the taxpayer or the taxpayer's spouse has attained age eighteen (18) as of the date of the purchase;
  - (b) If the dependent tax credit provided by KRS 141.020(3)(b)1.c. with respect to the taxpayer is allowable to another taxpayer for the taxable year;

- (c) If the purchase price of the principal residence exceeds two hundred thousand dollars (\$200,000); or
- (d) If modified gross income exceeds:
1. In the case of a single taxpayer or a married individual filing a separate return, fifty thousand dollars (\$50,000);
  2. In the case of two (2) or more unmarried individuals, fifty thousand dollars (\$50,000) multiplied by the number of individuals purchasing the principal residence; or
  3. In the case of a taxpayer and the taxpayer's spouse filing a joint return or filing separately on a combined return, one hundred thousand dollars (\$100,000).
- (4) If the taxpayer disposes of the principal residence or if the residence ceases to be the principal residence of the taxpayer within four (4) years of the purchase, the entire amount of credit allowed under subsection (2) of this section shall be recaptured during the taxable year within which the principal residence is disposed of or ceases to be the principal residence of the taxpayer, except that no recapture shall be required in the case of:
- (a) The death of the taxpayer;
  - (b) The death of the taxpayer's spouse, if the principal residence remains the residence of the taxpayer;
  - (c) A compulsory or involuntary conversion, within the meaning of 26 U.S.C. sec. 1033(a), if the taxpayer acquires a new principal residence within one (1) year of the date of disposition or cessation. The first-time homebuyer credit shall not apply to the new residence; or
  - (d) A transfer between spouses incident to divorce, to which 26 U.S.C. sec 1041(a) applies.

➔Section 2. KRS 141.0205 is amended to read as follows:

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) 1. For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(a);
  2. For taxable years beginning after December 31, 2006, 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, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and 154.27-080;
  - (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 coal incentive credit permitted under KRS 141.0405;
  - (k) The research facilities credit permitted under KRS 141.395;
  - (l) The employer GED incentive credit permitted under KRS 164.0062;
  - (m) The voluntary environmental remediation credit permitted by KRS 141.418;
  - (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;

- (o) The environmental stewardship credit permitted by KRS 154.48-025;
  - (p) The clean coal incentive credit permitted by KRS 141.428;
  - (q) The ethanol credit permitted by KRS 141.4242;
  - (r) The cellulosic ethanol credit permitted by KRS 141.4244;
  - (s) The energy efficiency credits permitted by KRS 141.436;
  - (t) The railroad maintenance and improvement credit permitted by KRS 141.385;
  - (u) The Endow Kentucky credit permitted by KRS 141.438;
  - (v) The New Markets Development Program credit permitted by KRS 141.434;
  - (w) The food donation credit permitted by KRS 141.392;
  - (x) The distilled spirits credit permitted by KRS 141.389; and
  - (y) The angel investor credit permitted by KRS 141.396.
- (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; and
  - (e) The ***first-time homebuyer credit permitted by Section 1 of this Act***~~[new home credit permitted by KRS 141.388]~~.
- (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) For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(c);

- (d) The certified rehabilitation credit permitted by KRS 171.3961 and 171.397(1)(b); and
  - (e) The film industry tax credit allowed by KRS 141.383.
- (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, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and 154.27-080;
  - (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 coal incentive credit permitted under KRS 141.0405;
  - (k) The research facilities credit permitted under KRS 141.395;
  - (l) The employer GED incentive credit permitted under KRS 164.0062;
  - (m) The voluntary environmental remediation credit permitted by KRS 141.418;
  - (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;

- (o) The environmental stewardship credit permitted by KRS 154.48-025;
  - (p) The clean coal incentive credit permitted by KRS 141.428;
  - (q) The ethanol credit permitted by KRS 141.4242;
  - (r) The cellulosic ethanol credit permitted by KRS 141.4244;
  - (s) The energy efficiency credits permitted by KRS 141.436;
  - (t) The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by KRS 141.437;
  - (u) The railroad maintenance and improvement credit permitted by KRS 141.385;
  - (v) The railroad expansion credit permitted by KRS 141.386;
  - (w) The Endow Kentucky credit permitted by KRS 141.438;
  - (x) The New Markets Development Program credit permitted by KRS 141.434;
  - (y) The food donation credit permitted by KRS 141.392; and
  - (z) The distilled spirits credit permitted by KRS 141.389.
- (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 and 171.397(1)(b); and
  - (c) The film industry tax credit allowed in KRS 141.383.

➔Section 3. The following KRS section is repealed:

141.388 Nonrefundable tax credit for new home purchases.