

AN ACT relating to the limited liability entity tax.

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

➔Section 1. KRS 141.0401 is amended to read as follows:

(1) As used in this section:

- (a) "Kentucky gross receipts" means an amount equal to the computation of the numerator of the sales factor under the provisions of KRS 141.120(8)(c), KRS 141.120(9), any administrative regulations related to the computation of the sales factor, and KRS 141.121 and includes the proportionate share of Kentucky gross receipts of all wholly or partially owned limited liability pass-through entities, including all layers of a multi-layered pass-through structure;
- (b) "Gross receipts from all sources" means an amount equal to the computation of the denominator of the sales factor under the provisions of KRS 141.120(8)(c), KRS 141.120(9), any administrative regulations related to the computation of the sales factor, and KRS 141.121 and includes the proportionate share of gross receipts from all sources of all wholly or partially owned limited liability pass-through entities, including all layers of a multi-layered pass-through structure;
- (c) "Combined group" means all members of an affiliated group as defined in KRS 141.200(9)(b) and all limited liability pass-through entities that would be included in an affiliated group if organized as a corporation;
- (d) 1. "Cost of goods sold" means ~~the~~
  - ~~1.~~ amounts that are ~~the~~
    - ~~a.~~ allowable as cost of goods sold pursuant to the Internal Revenue Code and any guidelines issued by the Internal Revenue Service, ***except that no costs shall be included in*** ~~relating to~~ cost of goods sold ~~unless modified by this paragraph;~~ and
    - ~~b.~~ Incurred in acquiring or producing the tangible product generating the

~~Kentucky gross receipts.~~

- ~~2. For manufacturing, producing, reselling, retailing, or wholesaling activities, cost of goods sold shall only include costs directly incurred in acquiring or producing the tangible product. In determining cost of goods sold:
    - ~~a. Labor costs shall be limited to direct labor costs as defined in paragraph (f) of this subsection;~~
    - ~~b. Bulk delivery costs as defined in paragraph (g) of this subsection may be included; and~~
    - ~~c. Costs allowable under Section 263A of the Internal Revenue Code may be included only to the extent the costs are incurred in acquiring or producing the tangible product generating the Kentucky gross receipts. Notwithstanding the foregoing, indirect labor costs allowable under Section 263A shall not be included;~~~~
  - ~~3. ]for any activity other than manufacturing, producing, reselling, retailing, or wholesaling[, no costs shall be included in cost of goods sold].~~
  2. As used in this paragraph, "guidelines issued by the Internal Revenue Service" includes regulations, private letter rulings, or any other guidance issued by the Internal Revenue Service that may be relied upon by taxpayers under reliance standards established by the Internal Revenue Service;
- (e) 1. "Kentucky gross profits" means Kentucky gross receipts reduced by returns and allowances attributable to Kentucky gross receipts, less the cost of goods sold attributable to Kentucky gross receipts. If the amount of returns and allowances attributable to Kentucky gross receipts and the cost of goods sold attributable to Kentucky gross receipts is zero, then

- "Kentucky gross profits" means Kentucky gross receipts; and
2. "Gross profits from all sources" means gross receipts from all sources reduced by returns and allowances attributable to gross receipts from all sources, less the cost of goods sold attributable to gross receipts from all sources. If the amount of returns and allowances attributable to gross receipts from all sources and the cost of goods sold attributable to gross receipts from all sources is zero, then gross profits from all sources means gross receipts from all sources;
- (f) ~~["Direct labor" means labor that is incorporated into the tangible product sold or is an integral part of the manufacturing process;~~
- (g) ~~"Bulk delivery costs" means the cost of delivering the product to the consumer if:~~
1. ~~The tangible product is delivered in bulk and requires specialized equipment that generally precludes commercial shipping; and~~
  2. ~~The tangible product is taxable under KRS 138.220;~~
- (h) ~~]"Manufacturing" and "producing" means:~~
1. Manufacturing, producing, constructing, or assembling components to produce a significantly different or enhanced end tangible product;
  2. Mining or severing natural resources from the earth; or
  3. Growing or raising agricultural or horticultural products or animals;
- (g)~~(i)~~ "Real property" means land and anything growing on, attached to, or erected on it, excluding anything that may be severed without injury to the land;
- (h)~~(j)~~ "Reselling," "retailing," and "wholesaling" mean the sale of a tangible product;
- (i)~~(k)~~ "Tangible personal property" means property, other than real property, that has physical form and characteristics; and

- ~~(1)~~ "Tangible product" means real property and tangible personal property;
- (2) (a) For taxable years beginning on or after January 1, 2007, an annual limited liability entity tax shall be paid by every corporation and every limited liability pass-through entity doing business in Kentucky on all Kentucky gross receipts or Kentucky gross profits except as provided in this subsection. A small business exclusion from this tax shall be provided based on the reduction contained in this subsection. The tax shall be the greater of the amount computed under paragraph (b) of this subsection or one hundred seventy-five dollars (\$175), regardless of the application of any tax credits provided under this chapter or any other provisions of the Kentucky Revised Statutes for which the business entity may qualify.
- (b) The limited liability entity tax shall be the lesser of subparagraph 1. or 2. of this paragraph:
1. a. If the corporation's or limited liability pass-through entity's gross receipts from all sources are three million dollars (\$3,000,000) or less, the limited liability entity tax shall be zero;
  - b. If the corporation's or limited liability pass-through entity's gross receipts from all sources are greater than three million dollars (\$3,000,000) but less than six million dollars (\$6,000,000), the limited liability entity tax shall be nine and one-half cents (\$0.095) per one hundred dollars (\$100) of the corporation's or limited liability pass-through entity's Kentucky gross receipts reduced by an amount equal to two thousand eight hundred fifty dollars (\$2,850) multiplied by a fraction, the numerator of which is six million dollars (\$6,000,000) less the amount of the corporation's or limited liability pass-through entity's Kentucky gross receipts for the taxable year, and the denominator of which is three million

dollars (\$3,000,000), but in no case shall the result be less than zero;

- c. If the corporation's or limited liability pass-through entity's gross receipts from all sources are equal to or greater than six million dollars (\$6,000,000), the limited liability entity tax shall be nine and one-half cents (\$0.095) per one hundred dollars (\$100) of the corporation's or limited liability pass-through entity's Kentucky gross receipts.
2.
    - a. If the corporation's or limited liability pass-through entity's gross profits from all sources are three million dollars (\$3,000,000) or less, the limited liability entity tax shall be zero;
    - b. If the corporation's or limited liability pass-through entity's gross profits from all sources are at least three million dollars (\$3,000,000) but less than six million dollars (\$6,000,000), the limited liability entity tax shall be seventy-five cents (\$0.75) per one hundred dollars (\$100) of the corporation's or limited liability pass-through entity's Kentucky gross profits, reduced by an amount equal to twenty-two thousand five hundred dollars (\$22,500) multiplied by a fraction, the numerator of which is six million dollars (\$6,000,000) less the amount of the corporation's or limited liability pass-through entity's Kentucky gross profits, and the denominator of which is three million dollars (\$3,000,000), but in no case shall the result be less than zero;
    - c. If the corporation's or limited liability pass-through entity's gross profits from all sources are equal to or greater than six million dollars (\$6,000,000), the limited liability entity tax shall be seventy-five cents (\$0.75) per one hundred dollars (\$100) of all of

the corporation's or limited liability pass-through entity's Kentucky gross profits.

In determining eligibility for the reductions contained in this paragraph, a member of a combined group shall consider the combined gross receipts and the combined gross profits from all sources of the entire combined group, including eliminating entries for transactions among the group.

- (c) A credit shall be allowed against the tax imposed under paragraph (a) of this subsection for the current year to a corporation or limited liability pass-through entity that owns an interest in a limited liability pass-through entity. The credit shall be the proportionate share of tax calculated under this subsection by the lower-level pass-through entity, as determined after the amount of tax calculated by the pass-through entity has been reduced by the minimum tax of one hundred seventy-five dollars (\$175). The credit shall apply across multiple layers of a multi-layered pass-through entity structure. The credit at each layer shall include the credit from each lower layer, after reduction for the minimum tax of one hundred seventy-five dollars (\$175) at each layer.
  - (d) The department may promulgate administrative regulations to establish a method for calculating the cost of goods sold attributable to Kentucky.
- (3) A nonrefundable credit based on the tax calculated under subsection (2) of this section shall be allowed against the tax imposed by KRS 141.020 or 141.040. The credit amount shall be determined as follows:
- (a) The credit allowed a corporation subject to the tax imposed by KRS 141.040 shall be equal to the amount of tax calculated under subsection (2) of this section for the current year after subtraction of any credits identified in KRS 141.0205, reduced by the minimum tax of one hundred seventy-five dollars (\$175), plus any credit determined in paragraph (b) of this subsection for tax

paid by wholly or partially owned limited liability pass-through entities. The amount of credit allowed to a corporation based on the amount of tax paid under subsection (2) of this section for the current year shall be applied to the income tax due from the corporation's activities in this state. Any remaining credit from the corporation shall be disallowed.

- (b) The credit allowed members, shareholders, or partners of a limited liability pass-through entity shall be the members', shareholders', or partners' proportionate share of the tax calculated under subsection (2) of this section for the current year after subtraction of any credits identified in KRS 141.0205, as determined after the amount of tax paid has been reduced by the minimum tax of one hundred seventy-five dollars (\$175). The credit allowed to members, shareholders, or partners of a limited liability pass-through entity shall be applied to income tax assessed on income from the limited liability pass-through entity. Any remaining credit from the limited liability pass-through entity shall be disallowed.
- (4) Each taxpayer subject to the tax imposed in this section shall file a return, on forms prepared by the department, on or before the fifteenth day of the fourth month following the close of the taxpayer's taxable year. Any tax remaining due after making the payments required in KRS 141.042 shall be paid by the original due date of the return.
- (5) The department shall prescribe forms and promulgate administrative regulations as needed to administer the provisions of this section.
- (6) The tax imposed by subsection (2) of this section shall not apply to:
  - (a) Financial institutions, as defined in KRS 136.500, except banker's banks organized under KRS 287.135 or 286.3-135;
  - (b) Savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only;

- (c) Banks for cooperatives;
- (d) Production credit associations;
- (e) Insurance companies, including farmers' or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;
- (f) Corporations or other entities exempt under Section 501 of the Internal Revenue Code;
- (g) Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit;
- (h) Corporations whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, provided that:
  - 1. The property consists of the final printed product, or copy from which the printed product is produced; and
  - 2. The corporation has no individuals receiving compensation in this state as provided in KRS 141.120(8)(b);
- (i) Public service corporations subject to tax under KRS 136.120;
- (j) Open-end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940;
- (k) Any property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;
- (l) An alcohol production facility as defined in KRS 247.910;
- (m) Real estate investment trusts as defined in Section 856 of the Internal Revenue Code;
- (n) Regulated investment companies as defined in Section 851 of the Internal Revenue Code;
- (o) Real estate mortgage investment conduits as defined in Section 860D of the Internal Revenue Code;

- (p) Personal service corporations as defined in Section 269A(b)(1) of the Internal Revenue Code;
  - (q) Cooperatives described in Sections 521 and 1381 of the Internal Revenue Code, including farmers' agricultural and other cooperatives organized or recognized under KRS Chapter 272, advertising cooperatives, purchasing cooperatives, homeowners associations including those described in Section 528 of the Internal Revenue Code, political organizations as defined in Section 527 of the Internal Revenue Code, and rural electric and rural telephone cooperatives; or
  - (r) Publicly traded partnerships as defined by Section 7704(b) of the Internal Revenue Code that are treated as partnerships for federal tax purposes under Section 7704(c) of the Internal Revenue Code, or their publicly traded partnership affiliates. "Publicly traded partnership affiliates" shall include any limited liability company or limited partnership for which at least eighty percent (80%) of the limited liability company member interests or limited partner interests are owned directly or indirectly by the publicly traded partnership.
- (7) (a) As used in this subsection, "qualified exempt organization" means an entity listed in subsection (6)(a) to (r) of this section and shall not include any entity whose exempt status has been disallowed by the Internal Revenue Service.
- (b) Notwithstanding any other provisions of this section, any limited liability pass-through entity that is owned in whole or in part by a qualified exempt organization shall, in calculating its Kentucky gross receipts or Kentucky gross profits, exclude the proportionate share of its Kentucky gross receipts or Kentucky gross profits attributable to the ownership interest of the qualified exempt organization.
- (c) Any limited liability pass-through entity that reduces Kentucky gross receipts

or Kentucky gross profits in accordance with paragraph (b) of this subsection shall disregard the ownership interest of the qualified exempt organization in determining the amount of credit available under subsection (3) of this section.

- (d) The Department of Revenue may promulgate an administrative regulation to further define "qualified exempt organization" to include an entity for which exemption is constitutionally or legally required, or to exclude any entity created primarily for tax avoidance purposes with no legitimate business purpose.
- (8) The credit permitted by subsection (3) of this section shall flow through multiple layers of limited liability pass-through entities and shall be claimed by the taxpayer who ultimately pays the tax on the income of the limited liability pass-through entity.

➔Section 2. KRS 141.040 is amended to read as follows:

- (1) Every corporation doing business in this state, except those corporations listed in paragraphs (a) to (i) of this subsection, shall pay for each taxable year a tax to be computed by the taxpayer on taxable net income or the alternative minimum calculation computed under this section at the rates specified in this section:
  - (a) Financial institutions, as defined in KRS 136.500, except bankers banks organized under KRS 286.3-135;
  - (b) Savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only;
  - (c) Banks for cooperatives;
  - (d) Production credit associations;
  - (e) Insurance companies, including farmers or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;
  - (f) Corporations or other entities exempt under Section 501 of the Internal

Revenue Code;

- (g) Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit;
  - (h) Corporations whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, provided that:
    - 1. The property consists of the final printed product, or copy from which the printed product is produced; and
    - 2. The corporation has no individuals receiving compensation in this state as provided in KRS 141.120(8)(b); and
  - (i) For all taxable years except those beginning after December 31, 2004, and before January 1, 2007, S corporations.
- (2) For tax years ending before January 1, 1990, the following rates shall apply:
- (a) Three percent (3%) of the first twenty-five thousand dollars (\$25,000) of taxable net income;
  - (b) Four percent (4%) of the amount of taxable net income in excess of twenty-five thousand dollars (\$25,000), but not in excess of fifty thousand dollars (\$50,000);
  - (c) Five percent (5%) of the amount of taxable net income in excess of fifty thousand dollars (\$50,000), but not in excess of one hundred thousand dollars (\$100,000);
  - (d) Six percent (6%) of the amount of taxable net income in excess of one hundred thousand dollars (\$100,000), but not in excess of two hundred fifty thousand dollars (\$250,000); and
  - (e) Seven and twenty-five one hundredths percent (7.25%) of the amount of taxable net income in excess of two hundred fifty thousand dollars (\$250,000).

- (3) For tax years beginning after December 31, 1989, and before January 1, 2005, the following rates shall apply:
- (a) Four percent (4%) of the first twenty-five thousand dollars (\$25,000) of taxable net income;
  - (b) Five percent (5%) of the amount of taxable net income in excess of twenty-five thousand dollars (\$25,000) but not in excess of fifty thousand dollars (\$50,000);
  - (c) Six percent (6%) of the amount of taxable net income in excess of fifty thousand dollars (\$50,000), but not in excess of one hundred thousand dollars (\$100,000);
  - (d) Seven percent (7%) of the amount of taxable net income in excess of one hundred thousand dollars (\$100,000), but not in excess of two hundred fifty thousand dollars (\$250,000); and
  - (e) Eight and twenty-five one hundredths percent (8.25%) of the amount of taxable net income in excess of two hundred fifty thousand dollars (\$250,000).
- (4) For tax years beginning before January 1, 1990, and ending after December 31, 1989, the tax shall be the sum of the amounts determined in paragraphs (a) and (b) as follows:
- (a) Apply the tax rates in subsection (2) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from the first day of the taxable year through December 31, 1989, and the denominator of which is the total number of days of the taxable year; and
  - (b) Apply the tax rates in subsection (3) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from January 1, 1990, through the last day of the taxable year

and the denominator of which is the total number of days of the taxable year.

- (5) For taxable years beginning after December 31, 2004, and before January 1, 2007, corporations subject to the tax imposed by this section shall pay the greater of the tax computed under paragraph (a) of this subsection, the tax computed under paragraph (b)1. or 2. of this subsection, or the minimum tax imposed by subsection (7) of this section. The tax computed under this subsection is as follows:
- (a) 1. Four percent (4%) of the first fifty thousand dollars (\$50,000) of taxable net income;
  - 2. Five percent (5%) of taxable net income over fifty thousand dollars (\$50,000) up to one hundred thousand dollars (\$100,000); and
  - 3. Seven percent (7%) of taxable net income over one hundred thousand dollars (\$100,000); or
  - (b) An alternative minimum calculation of an amount equal to the lesser of the amount computed under subparagraph 1. or 2. of this paragraph:
    - 1. The gross receipts calculation contained in subsection (11) of this section; or
    - 2. The gross profits calculation contained in subsection (12) of this section.
- (6) For taxable years beginning on or after January 1, 2007, the following rates shall apply:
- (a) Four percent (4%) of the first fifty thousand dollars (\$50,000) of taxable net income;
  - (b) Five percent (5%) of taxable net income over fifty thousand dollars (\$50,000) up to one hundred thousand dollars (\$100,000); and
  - (c) Six percent (6%) of taxable net income over one hundred thousand dollars (\$100,000).
- (7) For taxable years beginning on or after January 1, 2005, and before January 1, 2007, a minimum of one hundred seventy-five dollars (\$175) shall be due for the taxable

year from each corporation subject to the tax imposed by this section, regardless of the application of any tax credits provided under this chapter or any other provision of the Kentucky Revised Statutes for which the business entity may qualify.

- (8) The alternative minimum calculation portion of the tax computation provided in subsection (5) of this section shall not apply to:
- (a) Public service corporations subject to tax under KRS 136.120;
  - (b) Open-end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940;
  - (c) Any property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;
  - (d) An alcohol production facility as defined in KRS 247.910; and
  - (e) For taxable years beginning after December 31, 2005, and before January 1, 2007, political organizations as defined in Internal Revenue Code Section 527 and related regulations.
- (9) For taxable years beginning after December 31, 2004, and before January 1, 2007:
- (a) As used in this subsection, "qualified exempt organization" means an entity listed in subsection (1)(a) to (h) of this section and shall not include any entity whose exempt status has been disallowed by the Internal Revenue Service.
  - (b) Notwithstanding any other provisions of this section or KRS 141.010, any corporation of the type listed in KRS 141.010(24)(b)2. to 8. that is owned in whole or in part by a qualified exempt organization shall, in calculating its taxable net income, gross receipts, or Kentucky gross profits, exclude the proportionate share of its taxable net income, gross receipts, or Kentucky gross profits attributable to the ownership interest of the qualified exempt organization.
  - (c) Any corporation that reduces taxable net income, gross receipts, or Kentucky gross profits in accordance with paragraph (b) of this subsection shall

disregard the ownership interest of the qualified exempt organization in determining the amount of credit available under KRS 141.420.

- (d) The Department of Revenue may promulgate an administrative regulation to further define "qualified exempt organization" to include an entity for which exemption is constitutionally or legally required, or to exclude any entity created primarily for tax avoidance purposes with no legitimate business purpose.
- (10) For taxable years beginning after December 31, 2004, and before January 1, 2007:
- (a) To the extent that a corporation identified in KRS 141.010(24)(b)2. to 8. is doing business in this state, any member, shareholder or partner of the corporation may elect to pay, on behalf of the corporation, his, her or its proportionate share of the tax imposed by this section against the corporation. If an election is made, the electing member, shareholder or partner shall be treated in the same manner as the corporation regarding the proportionate part of the tax paid by the member, shareholder or partner. An election made pursuant to this subsection shall not:
    - 1. Be used by the Department of Revenue or the taxpayer to assert that the party making the election is doing business in Kentucky;
    - 2. Result in an increase of the amount of credit allowable under KRS 141.420; or
    - 3. Apply to any corporation that is required to be included in a consolidated return under KRS 141.200(2) to (5) and (9) to (12).
  - (b) The Department of Revenue shall prescribe forms and promulgate regulations to execute and administer the provisions of this subsection.
- (11) The alternative minimum calculation for gross receipts shall be:
- (a) For taxable years beginning on or after January 1, 2005, and before January 1, 2006, nine and one-half cents (\$0.095) per one hundred dollars (\$100) of the

corporation's Kentucky gross receipts; and

- (b) For taxable years beginning on or after January 1, 2006, and before January 1, 2007:
1. If the corporation's gross receipts from all sources are three million dollars (\$3,000,000) or less, the alternative minimum calculation shall be zero;
  2. If the corporation's gross receipts from all sources are greater than three million dollars (\$3,000,000) but less than six million dollars (\$6,000,000), the alternative minimum calculation shall be nine and one-half cents (\$0.095) per one hundred dollars (\$100) of the corporation's Kentucky gross receipts, reduced by an amount equal to two thousand eight hundred fifty dollars (\$2,850) multiplied by a fraction, the numerator of which is six million dollars (\$6,000,000) less the amount of the corporation's Kentucky gross receipts for the taxable year, and the denominator of which is three million dollars (\$3,000,000), but in no case shall the result be less than zero;
  3. If the corporation's gross receipts from all sources are equal to or greater than six million dollars (\$6,000,000), the alternative minimum calculation shall be nine and one-half cents (\$0.095) per one hundred dollars (\$100) of the corporation's Kentucky gross receipts.

In determining eligibility for the reductions contained in this paragraph when the alternative minimum calculation is computed on a consolidated return, the gross receipts of the affiliated group shall include the total gross receipts from all sources of the affiliated group, including eliminating entries for transactions among the group.

(12) The alternative minimum calculation for gross profits shall be:

- (a) For taxable years beginning on or after January 1, 2005, and before January 1,

2006, seventy-five cents (\$0.75) per one hundred dollars (\$100) of the corporation's Kentucky gross profits; and

- (b) For taxable years beginning on or after January 1, 2006, and before January 1, 2007:
1. If the corporation's gross profits from all sources are three million dollars (\$3,000,000) or less, the tax shall be zero;
  2. If the corporation's gross profits from all sources are at least three million dollars (\$3,000,000) but less than six million dollars (\$6,000,000), the tax shall be seventy-five cents (\$0.75) per one hundred dollars (\$100) of the corporation's Kentucky gross profits, reduced by an amount equal to twenty-two thousand five hundred dollars (\$22,500) multiplied by a fraction, the numerator of which is six million dollars (\$6,000,000) less the amount of the corporation's Kentucky gross profits, and the denominator of which is three million dollars (\$3,000,000), but in no case shall the result be less than zero;
  3. If the corporation's gross profits from all sources are equal to or greater than six million dollars (\$6,000,000), the tax shall be seventy-five cents (\$0.75) per one hundred dollars (\$100) on all of the corporation's Kentucky gross profits.

In determining eligibility for the reductions contained in this paragraph when the alternative minimum calculation is computed on a consolidated return, the gross profits of the affiliated group shall include the total gross profits from all sources of the affiliated group, including eliminating entries for transactions among the group.

(13) As used in subsections (11) and (12) of this section:

- (a) "Kentucky gross receipts" means an amount equal to the computation of the numerator of the sales factor under the provisions of KRS 141.120(8)(c);

- (b) "Gross receipts from all sources" means an amount equal to the computation of the denominator of the sales factor under the provisions of KRS 141.120(8)(c); and
  - (c) The terms defined in KRS 141.0401(1)(d) to ~~(j)(4)~~ shall have the same meaning as provided in KRS 141.0401.
- (14) (a) For taxable years beginning on or after January 1, 2007, an S corporation shall pay income tax on the same items of income and in the same manner as required for federal purposes, except to the extent required by differences between this chapter and the federal income tax law and regulations.
- (b) 1. If the S corporation is required under Section 1363(d) of the Internal Revenue Code to submit installments of tax on the recapture of LIFO benefits, installments to pay the Kentucky tax due shall be paid on or before the due date of the S corporation's return, as extended, if applicable.
  - 2. Notwithstanding KRS 141.170(3), no interest shall be assessed on the installment payment for the period of extension.
- (c) If the S corporation is required under Section 1374 or 1375 of the Internal Revenue Code to pay tax on built-in gains or on passive investment income, the amount of tax imposed by this subsection shall be computed by applying the highest rate of tax for the taxable year.
- ➔Section 3. The provisions of this Act shall apply to taxable years beginning on or after January 1, 2016.