Major Business Taxes in Kentucky

Cabinet for Economic Development

The Kentucky Department of Revenue administers the tax laws and collects tax revenue for the Commonwealth of Kentucky. While the summary information provided in this fact sheet constitutes a brief overview of the major business taxes in Kentucky, more detailed information is available. The Kentucky Department of Revenue maintains many of its publications online (revenue.ky.gov). The site contains all pertinent tax information and is updated daily.

In addition to publications that address specific tax categories, the site contains access to the following:

- Kentucky Tax Forms and Instructions
- E-Registration, E-Filing, and E-Payments
- Contact Information (Including E-mail Addresses)
- Newsletters and Guides
- On-Line Taxpayer Assistance; and
- Much, much more

State Corporation Income Tax (KRS 141.010 et seq.)
Kentucky corporations and foreign corporations are subject to income tax due to a "doing business" standard that includes being organized under the laws of this state; having a commercial domicile in this state; owning or leasing property in this state; having one (1) or more individuals performing services in this state; maintaining an interest in a pass-through entity doing business in this state; deriving income from or attributable to sources within this state, including deriving income directly or indirectly from a trust doing business in this state or deriving income directly or indirectly from a single-member limited liability company that is doing business in this state and is disregarded as an entity separate from its single member for federal income tax purposes; or directing activities at Kentucky customers for the purpose of selling them goods or services. Exempted are banks and trust companies other than bankers' banks, savings and loan associations, production credit associations, insurance companies, corporations exempted from federal income tax under section 501 of the U.S. Internal Revenue Code, and other nonprofit religious, educational, and charitable corporations. [KRS 141.010(25)]

For taxable years beginning before January 1, 2005, and after December 31, 2006, Kentucky has adopted the United States Internal Revenue Code (IRC) definition of corporation [(Section 7701(a)(3)], which includes associations, joint-stock companies, and insurance companies. For taxable years beginning on January 1, 2005 and before January 1, 2007, the definition of corporation generally includes all entities which provide limited liability to their owners [(KRS 141.010(24)]. For taxable years beginning on or after January 1, 2007, limited liability pass-through entities are not classified as corporations. Therefore, limited liability pass-through entities are no longer subject to the corporation income tax as provided by KRS 141.040.

Tax Rate Schedule

Taxable Net Income	Tax Rate (Per Taxable Income Level)
$0 – $50,000	4.0%
$50,001– $100,000	5.0%
$100,001(Plus)	6.0%

Source: KRS 141.040

For years beginning on or after January 1, 2007, a limited liability entity tax (LLET) will apply to every corporation and every limited liability pass-through entity doing business in Kentucky on all Kentucky gross receipts or Kentucky gross profits with the same relief thresholds as provided for the AMC. Under the new law, a corporation or limited liability pass-through entity doing business in Kentucky will be subject to the lesser of the LLET on gross receipts or gross profits or $175. A nonrefundable credit based on the LLET shall be allowed against the tax imposed by KRS 141.020 or KRS 141.040 in the current tax year after subtraction of the minimum tax of $175. The nonrefundable credit allowed 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.

Gross Receipts Method - It exempts a corporation or a limited liability pass-through entity with gross receipts from all sources (gross receipts within and outside KY) of $3,000,000 or less from the LLET. For a corporation or a limited liability pass-through entity with gross receipts from all sources (gross receipts within and outside KY) greater than $3,000,000 but less than $6,000,000, the following formula shall be used: the LLET calculation 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 and 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. If the total Kentucky gross receipts exceeds the $6,000,000 threshold, then the rate of ($0.095/$100) shall be applied to the **ENTIRE AMOUNT** of the corporation's or limited liability pass-through entity's Kentucky gross receipts.

Gross Profits Method - It exempts a corporation or a limited liability pass-through entity with gross profits from all sources (gross profits within and outside KY) of $3,000,000 or less from the LLET. For a corporation or a limited liability pass-through entity with gross profits from all sources (gross profits within and outside KY) greater than $3,000,000 but less than $6,000,000, the following formula shall be used: the LLET calculation 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 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. If the total Kentucky gross profits exceeds the $6,000,000 threshold, then the rate of ($0.75/$100) shall be applied to the **ENTIRE AMOUNT** of the corporation's or limited liability pass-through entity's Kentucky gross profits.

For years beginning on or after January 1, 2007, corporations having business income taxable both in Kentucky and elsewhere pay Kentucky income tax on that portion of business income earned in Kentucky as determined by the state's apportionment formula. The formula is based upon the Uniform Division of Income for Tax Purpose Act (UDITPA), which has been adopted generally by the majority of states. The Kentucky formula differs from the UDITPA formula in three (3) ways:

1. There is no throwback —sales are not recaptured to Kentucky when the sales are made to a state where the corporation has no tax liability;

2. Certain qualified pollution control equipment owned or leased in Kentucky is excluded from the property factor; and

3. The sales factor is given fifty (50) percent of the total weight in Kentucky's formula. (KRS 141.120, KRS 141.206)

Kentucky's Apportionment Formula (Containing all Factors)

$$\frac{\text{Property Factor (25\%) + Payroll Factor (25\%) + Sales Factor (50\%)}}{4}$$

Note: Computed to four (4) decimal places.

A corporation which does not have sales, property or payroll must average only the factors which are present to determine the weighted apportionment fraction. This does not mean the corporation does not have one of these factors in Kentucky. Some examples:

A) A corporation has payroll and property in Kentucky, but no Kentucky sales. The payroll factor is 25%, the property factor is 25% and the sales factor is 0%. The correct Kentucky apportionment fraction is [(25% + 25%) ÷ 4 = 12.5%].-

B) A Corporation has payroll and sales, but no property anywhere. The apportionment fraction is [(25% + 50%) ÷ 3= 25%].

Kentucky's Apportionment Formula (No Kentucky Sales) Example A

$$\frac{\text{Property Factor (25\%) + Payroll Factor (25\%) + Sales Factor (0\%)}}{4}$$

Note: Computed to four (4) decimal places.

Kentucky's Apportionment Formula (No Property Factor) Example B

$$\frac{\text{Payroll Factor (25\%)} + \text{Sales Factor (50\%)}}{3}$$

Note: Computed to four (4) decimal places.

Property Factor Equals (=)

Average value of real and tangible personal property owned or rented and used in Kentucky during the tax period	Divided (÷) By	Average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

Note: Excluding certified pollution control equipment.

The average value of property, as used in the property factor of the apportionment formula, is determined by averaging the values at the beginning and ending of the tax period. The Kentucky Department of Revenue may require the averaging of monthly values during the tax period, if it is reasonably required to reflect the average value of the taxpayer's property. Construction in progress is excluded from the property factor computation.

Property owned by the taxpayer is valued at its original cost, and property rented by the corporation is valued at eight (8) times the net annual rental rate (excluding receipts for sub-rentals).

Payroll Factor Equals (=)

Total amount of compensation paid or payable in Kentucky during the tax period	Divided (÷) By	Total amount of compensation paid or payable everywhere during the tax period.

Sales Factor Equals (=)

Total sales in Kentucky (destination basis) during the tax period	Divided (÷) By	Total sales of the taxpayer everywhere during the tax period.

In 2008, a new section was added to KRS 141 that requires that any net gain from a corporations treasury function transactions be included in the sales factor of the corporation's apportionment formula.

Gross receipts are used in the factor when figuring the apportionment of income for corporations providing services, rentals, or the licensing of tangible or intangible personal property. Special apportionment provisions apply to public service companies and financial organizations.

Sales to the U.S. government from a place of storage in Kentucky are considered as sales in Kentucky for state income tax purposes.

Multistate corporations can petition the Kentucky Department of Revenue for alternate apportionment formulas, when the statutory three (3) factor formula does not fairly represent the extent of the business activities in Kentucky. State statutes and regulations provide for special apportionment measures for interstate telecommunications companies, common carrier transportation companies, pipeline companies, regulated investment companies, securities brokerage companies, and loan companies.

An affiliated group connected through stock ownership with a common parent that is doing business in Kentucky must file a nexus consolidated return. Each corporation of the affiliated group must be doing business in Kentucky. The common parent must own 80% or greater ownership or voting rights of the corporations. This includes all corporations doing business in the state in any part of a taxable year unless the corporation is: 1) Exempt from corporate income tax under KRS 141.040(1) (a); 2) foreign corporation; 3) Corporations with respect to which an election under Section 936 of the Internal Revenue Code is in effect for the taxable year; 4) A real estate investment trust as defined in Section 856 by the Internal Revenue Code; 5) Regulated investment companies as defined in Section 851 of the Internal Revenue Code; 6) A domestic international sales company as defined in Section 992(a)(1) of the Internal Revenue Code; 7) Any corporation with a net operating loss and the property, payroll and sales factors are de minimis; or any corporation for which the sum of the property, payroll and sales factors described in KRS 141.120(8) is zero; and for taxable years beginning prior to January 1, 2006 and taxable years beginning on or after January 1, 2007, an S corporation as defined in Section 1361(a) of the Internal Revenue Code. (KRS 141.200)

Every corporation and/or limited liability pass-through entity subject to the corporation tax under KRS 141.040 and/or the limited liability entity tax under KRS 141.0401 with an annual state tax liability that can reasonably be expected to exceed $5,000 must file a declaration of estimated tax and make installment payments. Since January 1, 2006, an entity whose combined tax for the previous tax year, is equal to $25,000 or less can make estimated tax based on the previous taxable year regardless of the current year expected tax liability. (KRS 141.042)

The gross receipts received by a public service corporation that is a member of an affiliated group is excluded when calculating the alternative minimum tax or the limited liability entity tax for the group.

Gross Income

Gross income of corporations subject to Kentucky income tax is similar to income reported for federal income tax purposes.

Excluded from Kentucky gross income is income that is exempt from taxation by the Kentucky Constitution and the Constitution and statutory laws of the U.S.; all dividend income; income from safe harbor leases; any amount received by a tobacco producer or quota owner from the master settlement agreement, secondary settlement fund, or commodity credit corporation; fifty (50) percent of the gross income from any disposal of coal covered by Section 631(c) of the Internal Revenue Code, if no deduction is taken for percentage depletion; any amounts received as a result of a tobacco quota buydown program (See KRS 141.010(12) for detail).

Included in Kentucky gross income is interest income from obligations of other states and their political subdivisions (bonds, notes, mortgages, etc.; gross income of lessors income tax payments made by the lessees to lessors, under the provisions of Section 110 of the IRC and exclude payments from the gross income of lessees; and expenses paid to related members as provided by KRS 141.205.

Net Income
Net income for corporations subject to Kentucky income taxes is gross income minus essentially the same deductions from gross income as allowed for federal income taxes, except for the following which are not deductible when computing Kentucky net income:

(a) income taxes paid to other states that are computed in whole or in part, by reference to gross or net income, U.S. territories or possessions, or any foreign country or its political subdivisions;

(b) any deduction directly or indirectly allocable to net income which is either exempt from taxation or otherwise not taxed by Kentucky, or the same item to be deducted more than once;

(c) certain dividends receiving deduction by the corporation (as defined by Sections 243, 244, 245, and 247 of the U.S. Internal Revenue Code); and

(d) amounts paid to any club, organization, or establishment that has been found by the courts or a government body to discriminate in its membership, privileges, or services on the basis of race, color, religion, national origin, or sex. (SEE KRS 141.010(13) for detail).

Depreciable property placed in service after December 31, 1989, is depreciated in the same way as allowed by federal depreciation rules in effect prior to September 11, 2001. Property placed in service during the 1980s is adjusted to the value used for federal income taxes, beginning in 1994**.** Kentucky has not adopted the thirty percent (30%) federal bonus depreciation enacted by the Job Creation and Worker Assistance Act of 2002, the fifty (50%) bonus depreciation enacted by the Jobs and Growth Tax Relief Reconciliation Act of 2003, or the additional depreciation allowed by the Gulf Opportunity Zone Act of 2005.

Income Tax Credits
(For additional information see the Kentucky Business Incentives fact sheet.)

a. Credits for up to one hundred (100) percent of approved costs against income, Kentucky (KY) gross profits or KY gross receipts rerived from project, for up to ten (10) years, on land, buildings, site development, and building fixtures and equipment used in new or expanded manufacturing operations are available under the Kentucky Industrial Development Act (KIDA). Companies must create at least fifteen (15) new full-time jobs and invest at least $100,000. (KRS 154.28-090 and 141.400)

b. Credits for up to one hundred (100) percent of approved costs against income, KY gross profits or KY gross receipts derived from project for up to fifteen (15) years, on land, buildings, site development, and machinery used in new or expanded manufacturing operations in approved counties with high unemployment rates are available under the Kentucky Rural Economic Development Act (KREDA). Approved companies are corporations, limited liability companies, sole proprietorships and general partnerships. Companies must create at least fifteen (15) new full-time jobs and invest at least $100,000. (KRS 154.22-050; 154.22-070; and 141.347)

c. Credits for up to fifty (50) percent of start-up costs and fifty (50) percent of annual rental costs or rental value against income, KY gross profits or KY gross receipts derived from project, over a ten (10) year period, for new or expanding service and technology intensive projects that provide more than seventy-five (75) percent of their services to out-of-state customers and create at least fifteen (15) jobs for Kentucky residents are available under the Kentucky Jobs Development Act (KJDA). (KRS 154.24-110 and 141.407)

d. Credits for up to seventy-five (75) percent of the costs against income, KY gross profits or KY gross receipts derived from project, for up to ten (10) years, of upgrading manufacturing plants and equipment to prevent the closing of outdated facilities are available under the Kentucky Industrial Revitalization Act (KIRA). (KRS 154.26-090; 154.26-100; 141.403)

e. Credits against taxes imposed by KRS 141 for up to fifty (50) percent of the costs and installation of equipment used exclusively to recycle or compost post-consumer waste. Credits are limited each year and can be carried forward until used.

   A taxpayer with a “Major Recycling Project” is entitled to tax credit for up to 10 years and up to 50% of the installed costs of the equipment. In each taxable year, the amount of credits claimed for all major recycling projects is limited to 1) 50% of the excess of the total of each tax liability over the baseline tax liability of the taxpayer; or 2) $2,500,000, whichever is less. (KRS 141.390)

f. A credit against taxes imposed by KRS 141 of $100 for each person certified as unemployed by the appropriate state agency, and hired for at least 180 consecutive days. (KRS 141.065)

g. Any taxpayer that is an electric power company or an entity operating a coal-fired electric generating plant may receive a $2 per ton tax credit for each ton of Kentucky coal purchased and used for the purpose of generating electricity. Coal purchases in excess of the base year 1999 calendar year are eligible for the credit. (KRS 141.0405)

h. A credit against taxes imposed by KRS 141 for up to 4.5 percent of the value of Kentucky coal (excluding transportation costs) used for industrial heating or processing, for ten (10) years following either the installation or conversion to coal burning units. (KRS 141.041)

i. A credit against taxes imposed by KRS 141 of up to $1,500 for ten (10) percent of the wages paid to certain unemployed or low-income individuals that are hired by qualifying enterprise zone businesses. (KRS 154.45-090)

j. A credit against income, limited liability, insurance and bank franchise tax is allowed for a period not to exceed fifteen (15) years to investors in certified venture capital funds equal to forty (40) percent of their proportional ownership share of all qualified investments made by the fund. Credit claimed shall not exceed fifty (50) percent of their approved credit in any one (1) year. (KRS 154.20-250 to 154.20-284)

k. The Bluegrass State Skills Corporation may award a skills training investment tax credit for a company's occupational or skills upgrade training program. The nonrefundable credit against taxes imposed by KRS 141 is equal to fifty (50) percent of the approved cost incurred and may not exceed $500 per employee or $100,000 per company. (KRS 154.12-2084 to 154.12-2089; and KRS 141.405)

l. The Kentucky Economic Opportunity Zone Act (KEOZ) focuses on development of areas with high unemployment and poverty levels. Eligible companies include new or expanded manufacturing, services, or technology industries, which must invest at least $100,000 in the project and create at least ten (10) new full-time jobs for residents of the zone. An approved company may receive up to one hundred (100) percent credit against income, KY gross profits or KY gross receipts derived from project. The credit over the term of the agreement shall be limited to the total approved incentive amount. The approved company may carry forward credits during the agreement term, which shall be for ten (10) years. (KRS 154.23-005 – 154.23-079 and KRS 141.401)

m. An employer is entitled to a credit against taxes imposed by KRS 141 for a portion of released time given to assist an employee in obtaining a high school equivalency diploma. The credit is calculated by multiplying fifty (50) percent of the hours released by the student's hourly salary. The credit shall not exceed $1,250. (KRS 151B.127)

n. A tax credit against taxes imposed by KRS 141 equal to 5 percent of the qualified cost is available to new and existing businesses that construct, remodel, expand, or equip research facilities, but does not include replacement property. Any unused credit may be carried forward for ten (10) years. (KRS 141.395)

o. A credit against taxes imposed by KRS 141 for producers or blenders of a "biodiesel" or "blended biodiesel" with a blend of at least 2%. "Biodiesel" or "blended biodiesel" producers receive a $1 credit per gallon produced or blended. This credit is limited to a maximum annual state-wide credit of $1.5 million. Unused credits cannot be carried forward. (KRS 141.422-141.425)

p. An credit against taxes imposed by KRS 141 not to exceed $150,000 over a 10-year period on taxpayer expenditures made at a "Qualifying Voluntary Environmental Remediation Property (QVERP)." QVERP is contaminated real property in which the Kentucky Environmental and Public Protection Cabinet has determined that the responsible parties are financially unable to carry out the obligations to clean up the environmental or toxic damage and the property has been sold to a bona fide purchaser. (KRS 224-01-400 and KRS 224.01-405). The purchaser agrees to clean up the property and receive the credit and the Kentucky Environmental and Public Protection Cabinet grants the taxpayer a covenant not to sue. The maximum allowable credit is $150,000 and is limited to $37,500 per tax period. (KRS 141.418)

q. The "Kentucky Environmental Stewardship Act" provides for a credit against taxes imposed by KRS 141 for up to 10 years if approved by the Kentucky Economic Development Finance Authority (KEDFA) for 100% of the costs of providing the necessary skills training needed to produce the product and up to 25% of the investment in construction, equipment, and related expense. The costs must go towards the construction, rehabilitation or improvement of facilities necessary to produce an "Environmental Stewardship Product," which is defined as any new or improved product that has a reduced adverse affect on human health or environment when compared to a current product. The credit is limited to an amount of increase over the base year and the maximum claimed for any one year cannot exceed 25% of the total authorized inducement. An approved company under this agreement is not entitled recycling tax credit for equipment purchased for the environmental stewardship project. (KRS 154.48-010 to 035; KRS 141.430)

r. The "Kentucky Clean Coal Incentive Act" provides for an income, limited liability, license or public service corporation property tax credit for new clean coal facilities constructed after January 1, 2005, at a cost exceeding $150 million and used for purposes of generating electricity. Before the credit is given, the Kentucky Environmental and Public Protection Cabinet must certify that a facility is reducing emissions of pollutants released during electric generation through the use of clean coal equipment and technologies. The amount of credit will be $2.00 per ton of coal severed or processed in Kentucky and used in the facility and not already receiving tax credit. Any unused portions of this credit shall not be carried forward. (KRS 141.428)

s. A "Certified Historic Structures" tax credit on income, limited liability, license or franchise tax for financial institutions for the rehabilitation of a certified historic structure. The credit is 30% of the qualifying expenses for an owner-occupied property and 20% for all other properties. There is a seven-year carry forward for any unused credit. The maximum credit an owner that is also occupying the home may take is $60,000. The credit is capped for all taxpayers at $3 million per calendar year. (KRS 171.397)

Tax Losses

For tax years beginning on or after January 1, 2005, an individual or corporation in Kentucky shall not be allowed to carry its Kentucky net operating losses back. For tax years beginning on or after January 1, 2005 the carry forward of net operating losses (NOL) of a pass-through entity shall be reduced by the amount of distributive share, income, loss and deduction distributed to an individual or general partner. For tax years beginning on or after January 1, 2007, the NOL of a pass-through entity are distributed to the partners/shareholders. A NOL can be carried forward for up to twenty (20) years for tax years beginning after August 6, 1997 (KRS 141.011).

State Income Tax: Proprietorships and Pass-Through Entities

Sole proprietorships and pass-through entities are exempt from state corporate income taxes. Instead, the owners pay state individual income taxes on their shares of the earnings of the businesses, regardless of whether they take the income for their personal use or leave it in the business. Corporate partners involved with a pass-through entity doing business in Kentucky are taxable on their distributive share of the pass-through entities' income. If the corporate partner's only business activity in Kentucky is the pass-through entity interest, then the corporate partner is subject to Kentucky's corporation income tax on its distributive share income multiplied by the three-factor apportionment.

Kentucky has adopted changes in the Uniform Partnership Act, as approved by the National Conference of Commissioners on Uniform State Laws. It allows limited liability companies to become limited liability partnerships. It sets up the rules and regulations in which a limited partnership may be set up and governed (KRS 362). Although general partnerships have no state income tax liability, they must file an information return annually. Income distributed from a qualified investment partnership to a nonresident partner is not subject to Kentucky tax. (KRS 141.206)

For pass-through entities with nonresident individual partners, the pass-through entity may file a composite income tax return on behalf of electing nonresident partners'. If so doing, then it must pay the income tax at the highest marginal rate and must include all sources of income and deductions used to compute the adjusted gross income that is passed through to the nonresident individual partner. A nonresident individual partner whose only source of income within the state is from one or more pass-through entities may elect to be included in a composite return. A nonresident partner that has been included in a composite return may file an individual income tax return in order to take advantage of the graduated individual income tax rates. He shall receive credit for taxes paid on his behalf by the pass-through entity. Each year the pass-through entity will deliver to the Department of Revenue a form listing the total amounts paid or credited to nonresident partners. (KRS 141.206)

Tax Rate Schedule

Net Taxable Income	Tax Rate (Per Taxable Income Level)
$0 – $3,000	2.0%
$3,001 – $4,000	3.0%
$4,001 – $5,000	4.0%
$5,001 – $8,000	5.0%
$8,001 – $75,000	5.8%
$75,001 (Plus)	6.0%

Source: (KRS141.020)

The income of pass-through entities subject to taxation as distributive ~~shares~~ share income receives the same adjustments that are required by Section 703 (a) of the U.S. Internal Revenue Code.

Owners of unincorporated businesses who earn over $5,000 each year without withholding for state income taxes and who have a state tax liability of more than $500 must file estimates of income and make payments quarterly.

Nonresident individuals that are partners/members/shareholders of a pass-through entity, which does business both in Kentucky and outside of the state, are taxed in Kentucky on the partners'/members'/shareholders' distributive share of the income of the pass-through entity attributable to business conducted within the state. This is determined by using a three-factor (payroll, property and sales) apportionment formula with a double weighted sales factor. (KRS 141.206)

State Corporation License Tax (KRS 136.070–136.100)

Corporate license taxes have been eliminated for years ending on or after December 31, 2005. (KRS 136.070)

State Excise Tax on Communications Services

The state has an excise tax of 3% on the retail purchase of multichannel video programming (cable service and satellite broadcast and wireless cable service) (KRS 136.604). The state allows a credit for similar tax paid in another state. It has a tax of 2.4% on gross revenues from multichannel video programming and 1.3% on communications services (KRS 136.616). The sales tax on communications services continues at 6%.

State Corporation Organization Tax

Corporations that incorporate in Kentucky pay an organization tax to the Kentucky Secretary of State. The tax is based upon the number of shares of capital stock authorized in the articles of incorporation. The tax is also levied on extra shares of stock authorized by amended articles of incorporation and on additional shares created by merger or consolidation. (KRS 136.060)

Shares of Stock	Tax Per Share
1 to 20,000	$ 0.01
20,001 to 200,000	$0.005
Over 200,000	$0.002
Minimum Tax	$10.00

Local Occupational License Taxes On Net Profits

Kentucky statutes allow cities, counties, and school districts to levy occupational license taxes on the net profits of businesses including corporations, proprietorships, partnerships, and self-employed individuals. The taxes may be levied either on a flat rate schedule (based on type of business or employment size) or as a percentage of local net profits or gross receipts. For businesses with payroll and sales in more than one tax jurisdiction, net profits or gross receipts are apportioned using an equal weight of a payroll factor and a sales factor. For businesses with just sales in more than one tax jurisdiction, net profits or gross receipts are apportioned using a sales factor only. A few cities and counties place a cap on the tax payable annually by an individual business or exempt the lower amounts of profits. Some exempt income from sales to points outside of the local area. (KRS 68.180; 68.197; 91.200; 92.280; 92.281; 160.482 through 160.488; and 160.605)

Exemptions:

- Counties having a population of 30,000 or more are prohibited from collecting license fees or occupational taxes on profits, earnings, or distributions of an investment fund qualified under KRS 154.20-250 to 154.20-284 to the extent income would not be taxable to an individual investor. (KRS 68.197)

- Cities of all classes are prohibited from collecting license fees or occupational taxes on qualified investment partnerships. (KRS 68.197)

For current occupational license tax rates check the community information section of the Kentucky Cabinet for Economic Development's web site.

Businesses file returns and pay the tax on net profits (usually once annually) to the city or county, or to both. When the tax is levied on payrolls, the business withholds taxes from the salaries and wages of its employees and submits them (usually once quarterly) to the city, county or school district as applicable.

State and Local Property Taxes (KRS 132.010 et seq.)

Kentucky's state and local property tax system differs from those of most states. State government taxes all property not specifically exempted by the state constitution or personal property exempted by the legislature. Local governments are prohibited from taxing certain classes of property, such as manufacturing machinery, raw materials and goods in process. Local taxing jurisdictions in Kentucky include counties, cities, school districts, and special taxing districts (fire protection districts, sanitation districts, watershed districts, etc.)

State statutes place a limitation on the growth of property tax revenues. Local property taxes may not produce more than a four (4) percent increase over the previous year's revenues from real property, excluding new property, without voter approval. Likewise, the state property tax rate on real estate is adjusted each year to limit the statewide revenue from this class of property to no more than four (4) percent above the amount for the previous year, excluding revenue from new real property, tax increment financing development areas and KRS Chapter 103 Industrial Revenue Bonds for industrial buildings from the state property tax rate setting rollback provisions. The provisions apply to aggregate real property assessments in a jurisdiction but do not limit increases to individual properties. (KRS 132.010; KRS 132.023)

Assessments (KRS 132.195; 132.220; 132.280; 132.370; 132.420; 136.120; 136.181)
The basis of assessments for property taxes in Kentucky is one hundred (100) percent of fair cash value. The Kentucky Department of Revenue performs the assessment valuation for a limited number of classes of property including property owned by utility companies; railroads; airlines; most financial institutions; distilled spirits; nonresident commercial watercraft; and unmined minerals. The county Property Valuation Administrator (PVA), an elected state official, assesses all other classes of taxable property for the state, the county, school districts, and for most special taxing districts. Two cities in Kentucky make their own assessments, and all other cities use the assessments made by the county PVA. Assessments are based upon property held on January 1st of each year.

For assessment purposes, guidelines concerning the definitions of various tangible personal property are important. A manufacturer is defined as an entity that purchases, receives, or holds personal property for the purpose of adding to its value by manufacturing, refining, rectifying or mixing different materials with a view of making a profit. While there is not a single statutory definition of manufacturing machinery, the courts have defined manufacturing machinery as that which gives new shape, new quality, or new combination to matter, and which changes the adaptability of the matter and converts it into articles suitable for use. Manufacturers' goods in process include inventory that was originally a raw material that has been acted upon in some manner but has not completed the manufacturing process. Manufacturers' finished goods represent products that have been manufactured and are ready for sale or shipment. The value of both goods in process and finished goods must include all factory burden and overhead costs attributable to the manufacturing facilities and process.

Depreciable tangible personal property is assessed for current value by a method known in the property appraisal industry as replacement cost less accrued depreciation. Tables for six (6) ranges of economic life give current value as a percentage of original cost, reflecting both depreciation and appreciation (replacement cost). Floor values reflecting a salvage value of twenty (20) percent of original cost are generally assigned to property that is still in use after the end of its economic life.

Business inventories are generally valued at original cost on a first in first out (FIFO) basis, with book value used as the minimum cash value.

Property owners that are dissatisfied with the assessment values assigned to their real estate by the local PVA must first request a conference with the PVA. They may then appeal the assessment to the County Board of Assessment Appeals, then to the Kentucky Board of Tax Appeals, and then to the courts.

Exemptions/Rate Reductions

Private leasehold interests in property owned and financed by a governmental unit through industrial revenue bonds, under the provisions of KRS Chapter 103, are taxed by the state at $0.015 per $100 of leasehold value with approval from KEDFA. The same KEDFA approval will exempt the leasehold value from local property taxes. Exemption from local property taxes only on the leasehold value (no state property taxes included), does not require KEDFA approval. Some communities may negotiate for payments by industrial tenants to replace portions of local property taxes lost through public title to the property. Any portions of such projects financed by private capital are subject to the full state and local taxes applicable to private ownership. (KRS 132.020; 132.190; 132.200)

Businesses leasing real estate or personal property from a tax-exempt owner, other than property financed by industrial revenue bonds, must pay full state and local property taxes on their leasehold value. (KRS 132.195)

Cities may exempt the property of new manufacturing facilities from city property taxes for up to five (5) years as an inducement for the location of a plant in the city. This exemption cannot be granted by the state, by counties, by special districts, or by school districts. (KRS 92.300)

Tangible personal property located in a federally designated and activated foreign trade zone (or sub-zone) is exempt from all local property taxes, provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board. The state rate is only 1/10 of 1 cent per $100 of assessed value. (KRS 132.020 and 132.200)

City and county governments may grant a moratorium on increases in the assessed value of property taxes of older commercial structures for up to five (5) years following their rehabilitation, repair, restoration, or stabilization by owners or lessees. Structures must be at least twenty (25) years old to qualify. The project becomes eligible for a second assessment moratorium after a three (3) year waiting period. (KRS 99.595; 99.600)

State law allows for favorable tax treatment for finished goods inventories. The state rate on finished goods inventory is only five (5) cents per $100 of assessed value. Cities, counties, and urban-county governments may exempt or levy rates on these business inventories that are less than the prevailing rate of taxation on other tangible personal property. (KRS 132.020; 68.246; and 132.028)

Personal property placed in a warehouse or distribution center for subsequent distribution to an out-of-state location within six months is exempt from state, city, county, and school district personal property taxes. Finished goods at the end of the manufacturing process that are placed in a warehouse or distribution area for subsequent shipment out-of-state, may qualify for the in transit goods property tax rate. Fire districts and special-taxing districts may exempt property placed in a warehouse or distribution center for subsequent distribution to an out-of-state location at their option. (KRS 132.097 and 132.099)

The state property tax rate is $0.015 per $100 of value on aircraft not used in the business of transporting persons or property for compensation or hire (KRS 132.020; 132.200).

A brownfield incentives program provides a state property tax rate of $0.015 per $100 value assessed on all qualifying voluntary environmental remediation property provided the purchaser has obtained a covenant not to sue from the Kentucky Environmental and Public Protection Cabinet. This rate shall apply for 3 years following the issuance of the covenant not to sue; after which the regular rate will apply. The local property taxes are exempt for the 3-year period. (KRS 132.020)

Intangible property (money in hand, notes, bonds, accounts receivable, mortgage receivables, intercompany intangible personal property due from affiliates, patents, copyrights, trademarks, and other credits) effective January 1, 2006, is exempt from state and local property tax, with the exception being the intangible property of financial institutions and life insurance companies. (KRS 132.208)

Apportioned vehicles such as trucks, tractors, semi-trailers and buses used on routes or in systems that are partly within and partly outside Kentucky are exempt from ad valorem tax for state and local purposes. Any person who owns any truck, tractor, or bus operated on a route or as part of a system that is partly within and partly outside Kentucky shall pay an annual fee to the Kentucky Transportation Cabinet at the time the vehicle is registered. (KRS 132.760)

Changes in watercraft property taxation provide for simplified and equitable property taxation of commercial watercraft. Watercraft values are to be centrally assessed and taxes collected by the Kentucky Department of Revenue and distributed appropriately to local governments. On or before January 1, 2008, and each year thereafter, each corporation operating watercraft within this state during the previous calendar year must file a detailed description of all its watercraft. (KRS 136.1802; 136.1803; 136.1804).

Local property tax for radio and television equipment to included broadcast towers and weather equipment.

Sequence of Events
The property taxation process in Kentucky normally occurs in the following sequence:

1. Between January 1 and May 15, the business owner reports the value of taxable personal property that the business owned on January 1 to the county Property Valuation Administrator (PVA) or the Kentucky Department of Revenue. (KRS 132.220)

2. The PVA sets the assessed value for real property tax purposes. Local real estate assessment rolls are open for public inspection for thirteen (13) days beginning on the first Monday in May.

3. During the summer, the counties, cities, special districts, and school districts set local tax rates for the year. The Kentucky Department of Revenue sets state real estate rates.

4. Property tax bills are prepared and mailed to taxpayers by late September. Businesses located in cities receive a separate bill for city property taxes.

5. All taxpayers, other than public service companies, are allowed a two (2) percent discount for paying their property taxes by November 1. Full payment is due by December 31, and payments made later are subject to penalties.

State and Local Property Tax Rates for Business Property

Expressed in cents per $100 dollars of assessed value for 2007

Class of Property	**State**	**Counties (5)**	**Cities (1)**	**Schools (5)**
Real Estate	12.4	25.3635	21.5057	50.9887
Manufacturing Machinery	15.0	None	None	None
Pollution Control Facilities	15.0	None	None	None
Inventories • Raw Materials & Goods In Progress • Finished Goods • In Transit Goods (2)	 5.0 5.0 None	 None Optional None	 None Optional None	 None 51.7627 None
Leaseholds in Government Owned Industrial Revenue Bonds (Industrial Facilities & Equipment) (3)	1.5	None	None	None
Motor Vehicles	45.0	23.8203	16.2565	54.9661
Personal Property Operated in an Activated Foreign Trade Zone	0.1	None	None	None
Recycling Machinery & Equipment (4)	45.0	None	None	None
Aircraft (Recreational & Non-Commercial)	1.5	Optional	Optional	Optional
Other Tangible Personal Property (Furniture, Fixtures, Non-Production Equipment, etc.)	45.0	34.6829	20.1809	51.7627

1. Average city rates shown inclusive of zero rates.
2. Fire and special districts may exempt or levy a property tax against in transit goods.
3. Must be KEDFA approved if state property tax levy is involved.
4. Equipment used to recycle product directly back into the manufacturing process may qualify for the manufacturing machinery state rate only of $0.15 per $100 of value.
5. County and school rates stated are statewide average rates.

State Sales and Use Tax (KRS 139.010 et seq.)

A state sales tax of six (6) percent is imposed on retailers for the privilege of making retail sales. A retail sale includes the sale, rental, or lease of tangible personal property and the sale of certain services. Examples of taxable services include sewer services, communication services, and overnight transient room accommodations (1% statewide lodging tax added). Local sales taxes are not levied in Kentucky.

Kentucky law requires that this tax is to be collected by retailers located within Kentucky or those that have or use a representative in Kentucky. If the representative performs ANY activities that help establish or maintain a market place for the retailer, the retailer is responsible for collecting sales tax (KRS 139.340). Remote sellers who allow merchandise to be received and exchanged at an affiliated store or any location within Kentucky are considered retailers engaged in business in this state.

Kentucky's law has been amended to the required provisions of the Streamlined Sales and Use Tax Agreement. The agreement provides for common definitions for key terms, simplified and uniform rules for sourcing transactions, simplified administration of exemptions, and implementation of uniform audit procedures for the administration of sales and use taxes. The agreement is designed to make it easier for online and direct sales businesses to collect and remit sales and use taxes among participating states.
(KRS 139.200 through 139.300)

Major exemptions from the state sales tax, important to business and industry in Kentucky, include:

- Repair and replacement parts for trucks weighing over 44,000 pounds, including any towed unit, used exclusively in interstate commerce for the conveyance of property or passengers for hire.
- Items purchased for resale.
- Machinery for new and expanded industry.
- Raw materials, industrial supplies, and industrial tools.
- Energy and energy producing fuels, to the extent that they exceed three (3) percent of the cost of production.
- Certified pollution control equipment.
- Industrial machinery sold and delivered out-of-state to manufacturers or processors for use out-of-state.
- Commercial printers or direct mailers engaged in business in Kentucky are exempt from collecting sales and use on the sales of printing or direct mail advertising materials that are both printed and distributed from outside of the state if certain reporting requirements are

fulfilled. The purchaser is still liable for tax on the advertising materials delivered to Kentucky addressees. (KRS 139.365).

- Containers, packaging, and wrapping materials.
- Motor fuels for highway use.
- Industrial supplies and tools used to perform a manufacturing process on another entity's property.
- Durable medical equipment and oxygen equipment for home use and any "repair and replacement parts" used in conjunction with such equipment.
- Kentucky Enterprise Initiative Act (KEIA) provides for sales tax refund on building materials and research and development (R&D) equipment. The areas of focus are manufacturing, technology and tourism. The minimum investment required is $100,000 in preference zones and $500,000 in all other areas. Projects must be approved by KEDFA. (KRS 154.020-200 to KRS 154.020-216)

To qualify for the exemption for new and expanded industry, machinery must meet four specific requirements: (1) it must be machinery; (2) it must be used directly in the manufacturing process; (3) it must be incorporated for the first time into plant facilities in this state; and (4) it must not replace other machinery unless it: increases consumption of recycled materials not less than 10%, performs a different function, manufactures a different product, or has a greater productive capacity. It should be noted that in all cases where a question arises concerning the exemption of machinery for new and expanded industry, the burden of proof that each qualification has been met is upon the one seeking the exemption. (KRS 139.170, subsection 1)

Manufacturing is defined as a “process through which material having little or no commercial value for its intended use before processing has appreciable commercial value for its intended use after processing by the machinery.” The manufacturing process commences with the movement of raw materials from storage into a continuous, unbroken, integrated process and ends when the product is packaged and ready for sale. (KRS 139.170, subsection 2)

A manufacturing plant facility is a single location exclusively dedicated to manufacturing or processing production activities, with any retail sales only incidental to the manufacturing activities at the location. (KRS 139.170, subsection 3)

A use tax of six (6) percent is levied on tangible personal property purchased outside of the state for use in Kentucky. The use tax must also be paid on tangible personal property that is purchased for resale but is used instead of sold. The same exemptions allowed to industry for the sales tax are allowed for the use tax. Credit is given for state sales taxes paid out-of-state, if the other state grants similar credits for taxes paid in Kentucky. (KRS 139.310 thru 139.460)

Effective January 1, 2007, use tax which is due on tangible personal property which is purchased out of state and which is required to be titled or registered with the county clerk will be collected by the county clerk at the time of titling or first registration. The tax shall be collected unless the registrant presents a tax receipt from the seller verifying that tax has been previously paid, or demonstrates that the property is exempt under KRS 139.470(4), or provides a properly executed resale certificate or exemption certificate in accordance with KRS 139.270.

Service businesses such as banks, cleaners, beauty shop owners, tire repairers, professional services, etc., are classified as consumers of the tangible personal property which they use in rendering their services. (103 KAR 26:010)

Construction contractors are considered the final consumers of building materials, fixtures, and supplies incorporated into buildings and other improvements to real estate (roads, sewers, fences, etc.) and must pay sales and use taxes on such purchases. Contractors are subject to sales and use tax on materials used in contracts with governmental agencies, including facilities financed by government owned industrial revenue bonds. The provisions of KRS 139.320 are repealed effective 7/01/07.

The sale of business assets held or used in a non-selling activity is exempt from the sales and use tax, unless the sale is one of a series of sales sufficient in number, scope, and character to require the holding of a seller's permit. All sales of assets used in a retail selling activity are subject to the sales tax. (KRS 139.070)

A 6% sales and use tax is levied on the distribution, transmission or transportation of natural gas. Natural gas for residential usage and for resale is excluded. (KRS 139.480)

Receipts from the sale of motor vehicles as defined in KRS 138.450 which are registed for use on the public highways and upon which any applicable tax levied by KRS 138.460 has been paid are exempt from sales and use tax. Also exempt are receipts from the sale of motor vehicles which are made to non-residents of Kentucky who will be registering the vehicle in a state that allows residents of Kentucky to purchase motor vehicles without payment of that state's tax at the time of purchase or allows residents of Kentucky to remove the vehicle from that state within a specific time period without payment of that state's tax.

Sales taxes collected by businesses are filed and paid to the Kentucky Department of Revenue once monthly. Some small businesses with limited sales tax collections may be allowed to file less frequently. (KRS 139.540 thru 139.590) Retailers may voluntarily choose to report and pay their sales and use tax electronically via E-Tax.

Certified tourism attractions may recover the lesser of the total amount of the sales tax liability or twenty-five (25) percent of the initial project fixed asset costs through a refund of sales tax collected from their admissions and sales of tangible personal property. The recovery period is ten (10) years and is limited to 2.5 percent per annum. Tourist attractions that contain a lodging facility approved by the appropriate state or federal agency may recover the lesser of 50 percent (50%) of approved costs or the total amount of the sales tax liability. The annual refund maximum is 2.5 percent (2.5%) of approved costs. Notwithstanding the 2.5 percent (2.5%) limitation, any unused inducements may be carried forward to any succeeding year within the 10 year time limit set forth by the agreement. (KRS 139.536 and 148.850 – 148.859) For tourism attraction projects that include a lodging facility or shrine as defined in statute, the 50 percent (50%) inducement may be recovered over a twenty (20) year term.

Sales Tax – Communications Services (Defined)
Because of additional SST conforming changes, the components of communications service has been broken down into two major categories: 1) telecommunications services and 2) ancillary services with an effective date of July 1, 2007. The 6% sales tax is imposed on the furnishing of intrastate, interstate, and international communications service, except the furnishing of pay telephone service. (KRS 139.195 and KRS 139.200) Effective January 1, 2006, switch access charges and pay phone receipts are no longer subject to sales tax. (KRS 139.195)

Kentucky Gross Receipts Defined for Communications Services
Any business whose interstate communications service subject to sales tax exceeds 5% of the business's Kentucky gross receipts is entitled to a refundable credit if the business has: a) annual Kentucky gross receipts equal to $1,000,000 or more; and b) the majority of the interstate communications service billed to a Kentucky service address for the annual period is for services originating outside and terminating within the state. Gross receipts for the purpose of determining the refundable tax credit shall be based on that portion of a company's receipts derived from sales occurring in Kentucky. Kentucky gross receipts will be equivalent to the "sales factor" as stated in the apportionment formula found in KRS 141.120. (KRS 139.505)

Utility Gross Receipts License Tax (KRS 160.613 et seq.)
Kentucky statutes allow the imposition of a utility gross receipts license tax for schools not to exceed three (3) percent of the gross receipts derived from the furnishing of intrastate telephonic and telegraphic communications services; electric power; water; natural, artificial, and mixed gas; and the furnishing of multi-channel services to include cable television, direct broadcast satellite, and wireless cable service.

"Gross receipts" includes all amounts received in money, credits, property, or other money's worth in any form, as consideration for the furnishing of the above utilities, except that "gross receipts" shall not include amounts received for furnishing energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three (3) percent of the cost of production, and shall not include amounts received for furnishing any of the above utilities which are to be resold. The consumer shall be held liable for the tax if the seller is exempt by state or federal law. Any service provider required to pay the tax may pass the cost on to their customers at the rate levied by the school district. Over one hundred (100) of Kentucky's counties currently impose the tax. (KRS 160.613 et seq.)

State Unemployment Insurance (U.I.) Tax (KRS 341)
Most employees in Kentucky are covered by unemployment insurance. Exceptions include commissioned insurance agents, railway workers, some agricultural workers, domestic service employment of less than $1,000 per quarter, student workers, self-employed persons, and

employees of certain nonprofit organizations. Covered employees include corporate officers but not owners and partners in unincorporated businesses. (KRS 341.050; 341.055)

The taxable wage base for U.I. taxes in Kentucky is the first $8,000 of each worker's annual wages, including tips. An individual working forty (40) hours per week at the federal and state minimum wage exceeds the taxable wage within a calendar year. (KRS 341.030)

U.I. tax rates for Kentucky's employers are set annually from statutory tables of rates. The balance in the state U.I. trust fund determines the rate table in effect during a calendar year. An individual employer's contribution rate within the table is determined by its reserve account balance ratio.

Reserve Account Balance Ratio Rate Equals (=)

Reserve Account Balance	Divided (÷) By	Taxable Wages for the Three (3) Previous Years (12 Calendar Quarters)

The statutory table in effect in 2007 has a minimum contribution rate of 0.5 percent of taxable wages for employers with the best reserve account balance ratio, and a maximum rate of nine and one-half (9.50%) percent for employers with the poorest reserve ratios. The average employer tax rate was 2.7% in 2007 (KRS 341.270, Table A(C)).

A new employer, except contract construction, pays at a rate of at least 3.04 percent of taxable wages during the first three (3) years of operation to establish a reserve account with the state U.I. system; the rate will increase if benefits charged to the account during this time exceed contributions paid. Thereafter it is experience-rated, with a contribution rate based on its reserve ratio.

New employers in contract construction pay at the maximum rate under the rate schedule in effect for any given calendar year during the first three (3) years of operation to establish a reserve account with the state U.I. system. Thereafter it is experience-rated, with a contribution rate based on its reserve ratio. (KRS 341.250; 341.270)

Businesses become liable for paying state unemployment insurance taxes by paying at least $1,500 in wages in a calendar quarter, or by employing at least one (1) worker in each of twenty (20) weeks during a calendar year, or by acquiring an existing liable business. Different rules apply for agricultural, domestic and nonprofit employment. (KRS 341.070)

Benefit payments are made from the state U.I. fund to qualified unemployed workers and are charged against the account of the last firm the claimant worked for in each of ten (10) weeks, whether or not consecutive, preceding his/her layoff. (KRS 341.370)

Cabinet for Economic Development

Important Features:

- An employer challenging a claim against its account must submit the protest within ten (10) days after notice of the claim is mailed by the Department for Workforce Investment, Education Cabinet.

- An employer can make voluntary contributions to the state U.I. trust fund to improve its reserve account balance and lower its contribution rate. (KRS 341.530)

- When an operating business is bought by another firm without a significant break in operations, the new owner (successor) assumes the contribution rate and U.I. liabilities of the previous owner.

- When an employer closes down completely, and a new owner reopens the facility, the new company usually starts as a new employer, with a contribution rate of 2.7 percent. If the new owner already has a Kentucky account for another location in the state, it assumes the rate of its existing account.

- When an existing employer opens a new business facility, the experienced employer rate is used for the new facility, as long as the new facility is part of the same legal entity. If the new facility is developed as part of a separate legal entity, then the new employer contribution rate of 3.04 percent applies to the new facility.

- When an employer wants to get reinstated by the Division of Unemployment Insurance (DUI), the facility is required to get a certificate from the DUI stating that all assessments, penalties and interest on a dissolved or revoked corporation have been paid before that corporation can apply for reinstatement.

- The statute of limitations on an action for the recovery of contributions, penalties and interest on a dissolved or revoked corporation has been extended from 5 years to 10 years.

Appeals Procedures (KRS 341.420 – KRS 341.440)

1. The claimant or employer may appeal the determination on a claim to the Department for Workforce Investment, Education Cabinet within fifteen (15) days after the determination is mailed. The Department then appoints a state referee to hear the appeal.

2. An employer or claimant may appeal the referee's decision to the state U.I. Commission within fifteen (15) days after notice of the determination is mailed.

3. The Commission may on its own affirm, modify, or set aside the decision of the referee.

4. Employers or claimants may appeal the Commission's decision to the circuit court, in the county where the claimant was last employed, within twenty (20) days after the Commission's decision.

Useful Tax Links:

Internal Revenue Service

Kentucky Department of Revenue

Unemployment Insurance

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