

KY H 201 , Introduced

Kentucky

SUMMARY: Freezes the state property tax rate and eliminate the tax rate reduction for qualified heavy equipment; reinstates the bank franchise tax and exempt financial institutions from corporation income tax and LLET; defines vapor products and include vapor products in the definition of tobacco products; removes references to vapor products; increases the tax on cigarettes, snuff, chewing tobacco, and tobacco products; removes the vapor products tax.~SAME AS:

Changes in Bill text reflected as:

Text Deleted

Text Added

Text Vetoed

Current Legislative Status

01/04/2022 INTRODUCED.

01/04/2022 Filed as Bill Request Number: 337.

01/04/2022 To HOUSE Committee on COMMITTEES.

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Introduced

January 4, 2022

Willner

KENTUCKY LEGISLATURE

HB 201

2022 Regular Session

AN ACT relating to taxation.

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

*****TEXT OMITTED, DOES NOT PERTAIN TO FILM*****

Section 32. KRS 141.383 is amended to read as follows:

(1) As used in this section:

- (a) "Above-the-line production crew" has the same meaning as in KRS 154.61-010;
- (b) "Approved company" has the same meaning as in KRS 154.61-010;
- (c) "Authority" has the same meaning as in KRS 154.61-010;
- (d) "Below-the-line production crew" has the same meaning as in KRS 154.61-010;
- (e) "Qualifying expenditure" has the same meaning as in KRS 154.61-010;
- (f) "Qualifying payroll expenditure" has the same meaning as in KRS 154.61-010;
- (g) "Secretary" has the same meaning as in KRS 154.61-010; and
- (h) "Tax incentive agreement" has the same meaning as KRS 154.61-010.

(2) (a) There is hereby created a tax credit against the tax imposed under KRS 141.020 or 141.040 and 141.0401, with the ordering of credits as provided in KRS 141.0205.

(b) The incentive available under paragraph (a) of this section is:

1. A refundable credit for applications approved prior to April 27, 2018; **and**
2. A nonrefundable and nontransferable credit for applications approved on or after April 27, 2018, ~~but before January 1, 2022; and~~
- ~~3. A refundable credit for applications approved on or after January 1, 2022,~~ if the provisions of paragraph (c) of this subsection are met.

(c) 1. The total tax incentive approved under KRS 154.61-020 shall be limited to:

a. One hundred million dollars (\$100,000,000) for calendar year 2018 and each calendar year through the calendar year 2021; ~~and~~

b. Seventy-five million dollars (\$75,000,000) for the calendar year 2022 ; and

c. Ten million dollars (\$10,000,000) for the calendar year 2023 and each calendar year thereafter.

2. Beginning January 1, 2022, to qualify for the **nonrefundable or** refundable credit, all applicants shall:

a. Begin production within six (6) months of filing an application with the authority; and

b. Complete production within two (2) years of their production start date.

(3) Beginning January 1, 2022, **but before January 1, 2023,** an approved company may receive a refundable tax credit , **and beginning January 1, 2023, an approved company may receive a nonrefundable tax credit,** if:

(a) The department has received notification from the authority that the approved company has satisfied all requirements of KRS 154.61-020 and 154.61-030; and

(b) The approved company has provided a detailed cost report and sufficient documentation to the authority, which has been forwarded by the authority to the department, that:

1. The purchases of qualifying expenditures were made after the execution of the tax incentive agreement; and

2. The approved company has withheld income tax as required by KRS 141.310 on all qualified payroll expenditures.

(4) Interest shall not be allowed or paid on any refundable credits provided under this section.

(5) The department may promulgate administrative regulations under KRS Chapter 13A to administer this section.

(6) On or before September 1, 2010, and on or before each September 1 thereafter, for the immediately preceding fiscal year, the department shall report to the authority and the Interim Joint Committee on Appropriations and Revenue the names of the approved companies and the amounts of refundable income tax credit claimed.

(7) No later than September 1, 2021, and by September 1 every four (4) years thereafter, the department and the Cabinet for Economic Development shall cooperatively provide historical data related to the tax credit allowed in this section and KRS 154.61-020 and 154.61-030, including data items beginning with tax credits claimed for taxable years beginning on or after January 1, 2018:

(a) The name of the taxpayer claiming the tax credit;

(b) The date that the application was approved and the date the filming or production was completed;

(c) The taxable year in which the taxpayer claimed the tax credit;

(d) The total amount of the tax credit, including any amount denied, any amount applied against a tax liability, any amount refunded, and any amount remaining that may be claimed on a return filed in the future;

(e) Whether the taxpayer is a Kentucky-based company as defined in KRS 154.61-010;

(f) Whether the taxpayer films or produces a:

1. Feature-length film, television program, or industrial film;
2. National touring production of a Broadway show; or
3. Documentary;

(g) Whether the filming or production was performed:

1. Entirely in an enhanced county; or
2. In whole or in part in any Kentucky county other than in an enhanced incentive county;

(h) The amount of qualifying expenditures incurred by the taxpayer;

(i) The amount of qualifying payroll expenditures paid to:

1. Resident below-the-line crew; and
2. Nonresident below-the-line production crew; including the number of crew members in each category;

(j) The amount of qualifying payroll expenditures paid to:

1. Resident above-the-line crew; and
2. Nonresident above-the-line crew; including the number of crew members in each category; and

(k) A brief description of the type of motion picture or entertainment production project.

(8) The information required to be reported under this section shall not be considered confidential taxpayer information and shall not be subject to KRS Chapter 131 or any other provisions of the Kentucky Revised Statutes prohibiting disclosure or reporting of information.

*****TEXT OMITTED, DOES NOT PERTAIN TO FILM*****

Section 35. KRS 154.61-020 is amended to read as follows:

(1) The purposes of KRS 141.383 and this subchapter are to encourage:

(a) The film and entertainment industry to choose locations in the Commonwealth for the filming and production of motion picture or entertainment productions;

(b) The development of a film and entertainment industry in Kentucky;

(c) Increased employment opportunities for the citizens of the Commonwealth within the film and entertainment industry; and

(d) The development of a production and postproduction infrastructure in the Commonwealth for film production and touring Broadway show production facilities containing state-of-the-art technologies.

(2) The authority, together with the Department of Revenue, shall administer the tax credit established by KRS 141.383, this section, and KRS 154.61-030.

(3) To qualify for the tax incentive provided in subsection (5) of this section, the following requirements shall be met:

(a) For an approved company that is also a Kentucky-based company that:

1. Films or produces a feature-length film, television program, or industrial film in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be one hundred twenty-five thousand dollars (\$125,000);

2. Produces a national touring production of a Broadway show in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be twenty thousand dollars (\$20,000); or

3. Films or produces a documentary in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be ten thousand dollars (\$10,000); and

(b) For an approved company that is not a Kentucky-based company that:

1. Films or produces a feature-length film, television program, or industrial film in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be two hundred fifty thousand dollars (\$250,000); or
2. Films or produces a documentary in whole or in part in the Commonwealth or that produces a national touring production of a Broadway show, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be twenty thousand dollars (\$20,000).

(4) **(a)** Beginning on January 1, 2022, **but before January 1, 2023**, the total tax incentive approved under KRS 141.383 and this subchapter shall be limited to seventy-five million dollars (\$75,000,000) for calendar year 2022 .

(b) Beginning on January 1, 2023, the tax incentive approved under KRS 141.383 and this subchapter shall be limited to ten million dollars (\$10,000,000) for calendar year 2023 and each calendar year thereafter.

(5) (a) To qualify for the tax incentive available under KRS 141.383 and this subchapter all applicants shall:

1. Begin filming or production within six (6) months of filing an application with the authority; and
2. Complete filming or production within two (2) years of the filming or production start date.

(b) The tax credit shall be against the Kentucky income tax imposed under KRS 141.020 or 141.040, and the limited liability entity tax imposed under KRS 141.0401, and shall be refundable as provided in KRS 141.383.

(c) 1. For a motion picture or entertainment production filmed or produced in its entirety in an enhanced incentive county, the amount of the incentive shall be equal to thirty-five percent (35%) of the approved company's:

- a. Qualifying expenditures;
- b. Qualifying payroll expenditures paid to resident and nonresident below-the-line production crew; and
- c. Qualifying payroll expenditures paid to resident and nonresident above-the-line production crew not to exceed one million dollars (\$1,000,000) in payroll expenditures per employee.

2. a. To the extent the approved company films or produces a motion picture or entertainment production in part in an enhanced incentive county and in part a Kentucky county that is not an enhanced incentive county, the approved company shall be eligible to receive the incentives provided in this paragraph for those expenditures incurred in the enhanced incentive county and all other expenditures shall be subject to the incentives provided in paragraph (d) of this subsection.

b. The approved company shall track the requisite expenditures by county. If the approved company can demonstrate to the satisfaction of the cabinet that it is not practical to use a separate accounting method to determine the expenditures by county, the approved company shall determine the correct expenditures by county using an alternative method approved by the cabinet.

(d) For a motion picture or entertainment production filmed or produced in whole or in part in any Kentucky county other than in an enhanced incentive county, the amount of the incentive shall be equal to:

1. Thirty percent (30%) of the approved company's:
 - a. Qualifying expenditures;
 - b. Qualifying payroll expenditures paid to below-the-line production crew that are not residents; and
 - c. Qualifying payroll expenditures paid to above-the-line production crew that are not residents, not to exceed one million dollars (\$1,000,000) in payroll expenditures per employee; and

2. Thirty-five percent (35%) of the approved company's:

a. Qualifying payroll expenditures paid to resident below-the-line production crew; and

b. Qualifying payroll expenditures paid to resident above-the-line production crew not to exceed one million dollars (\$1,000,000) in payroll expenditures per employee.

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