Kentucky Economic Development Finance Authority (KEDFA)

Kentucky Business Investment (KBI) Program

This fact sheet provides an overview of the Kentucky Business Investment (KBI) Program. For a full discussion of the program requirements, please see KRS 154.32. As with all state administered tax incentive programs, any inducements offered to an eligible company under the KBI program are negotiated by Cabinet for Economic Development officials and subject to approval by the Kentucky Economic Development Finance Authority (KEDFA).

Eligible Companies

Any business entity engaged in one or more of the following activities:

- Manufacturing
- Agribusiness
- Regional and national headquarters (regardless of the underlying business activity)
- Nonretail service or technology activities must be:
  - Designed to serve a multistate, national or international market;
  - Provided to a customer base that includes more than 50% non-residents; and
  - May Include, but are not limited to, call centers, centralized administrative or processing centers, telephone or internet sales order or processing centers, distribution or fulfillment centers, data processing centers, research and development facilities and other similar activities.

Eligible company does not include companies where the primary activity to be conducted within the Commonwealth is forestry, fishing, mining, coal or mineral processing, the provision of utilities, construction, wholesale trade, retail trade, real estate, rental and leasing, educational services, accommodation and food services or public administration services.

Enhanced Incentive Counties

Kentucky counties are designated "enhanced incentive" eligible by meeting at least one of the three following criteria: (1) counties with an average annual unemployment rate exceeding the state average annual unemployment rate in the five preceding calendar years; (2) counties with an unemployment rate greater than 200 percent of the statewide unemployment rate for the preceding year; and (3) counties identified as one of the sixty most distressed counties based on a three part test (three-year unemployment, education attainment and road quality). Once a company enters into a tax incentive agreement, the company maintains its enhanced benefits for the term of the agreement regardless of any change in the county's status. Any project located in an enhanced incentive county that has been decertified shall have until July 1 of the third year following the decertification to obtain final approval.

If an "industrial park", as outlined in the criteria in KRS 154.32, is located in two or more counties, one of which is an enhanced incentive county, projects undertaken in the industrial park may be approved for enhanced incentive county incentives.

Minimum Requirements for Eligible Projects

Requirements to qualify for the incentives:

- Employment minimum requirement
  - Create a minimum of 10 new, full-time jobs for Kentucky residents.
  - Maintain an annual average of at least 10 new, full-time jobs for Kentucky residents.
- Investment minimum requirement
  - Incur eligible costs of at least $100,000.
- Wage minimum requirement
  - For enhanced incentive counties, at least 90 percent of the new, full-time, Kentucky resident employees must receive hourly wages of at least $9.06 (125 percent of the federal minimum wage).
  - For other counties, at least 90 percent of the new, full-time Kentucky resident employees must receive hourly wages of at least $10.88 (150 percent of the federal minimum wage).
- Employee benefit minimum requirement
  - The term “employee benefits” is defined as “non-mandated payments by an approved company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k), or similar plans.”
  - Any company participating in this program is required to provide its new, full-time Kentucky resident employees with employee benefits equal to 15 percent of the required minimum hourly wage.
  - If employee benefits are less than 15 percent of the required minimum hourly wage, a company may utilize a combination of wages and employee benefits equivalent to 115 percent of the required minimum hourly wage. At least one company paid benefit is required.
    - For enhanced incentive counties, at least 90 percent of the new, full-time, Kentucky resident employees must receive total hourly compensation (hourly wages plus employee benefits) of at least $10.42.
    - For other counties, at least 90 percent of the new, full-time Kentucky resident employees must receive total hourly compensation (hourly wages plus employee benefits) of at least $12.51.

If each of the above minimum requirements is not met as of the activation date, the agreement is considered cancelled and the approved company will not be eligible for any of the incentives. If the above minimum requirements are met as of the activation date and are not met at the annual review date(s), the incentives may be suspended or, with the appropriate approval from KEDFA, terminated.

For new projects locating to the Commonwealth, the company will be required to certify that the project could reasonably and efficiently locate outside of the Commonwealth and, without the incentives offered, the project would likely locate outside of the Commonwealth. For existing location projects considering expansions in the Commonwealth, the company will be required to certify that the tax incentives are necessary for the project to occur.

Eligible Costs

Eligible costs will only include costs incurred after the date of preliminary approval.

- For a project to be considered an "owned" project, the approved company or an affiliate either owns the project in fee simple or possesses the project pursuant to a capital lease. Eligible costs for owned projects include 100 percent of the land, building, site development and start-up costs.
- For a project to be considered a "leased" project, the approved company occupies the site of the project pursuant to an operating lease agreement with an unrelated entity that reflects an arms' length transaction. Eligible costs for leased projects include 100 percent of the start-up costs and 50 percent of the estimated annual rent payments for each year of the tax incentive agreement.

Start-up costs include the costs incurred to furnish and equip a facility, such as computers, furnishings, office equipment, manufacturing equipment, fixtures, relocation of out-of-state equipment and nonrecurring costs of fixed telecommunication equipment. For projects not located in enhanced incentive counties, the cost of equipment eligible for recovery as an eligible cost is limited to $20,000 for each new, full-time job for Kentucky residents created as of the activation date.

Incentives

Tax incentives are available for up to 15 years in enhanced incentive counties or up to 10 years in other counties via:

- **Tax Credits** up to 100 percent of corporate income or limited liability entity tax liability arising from the project.
- **Wage Assessment** incentives up to five percent of gross wages of each employee in enhanced incentive counties or up to four percent (including up to one percent required local participation) of gross wages of each employee in other counties. If the local community does not have a local occupational fee, then an alternative form of participation may be required.

The employees recoup the wage assessment through a state income tax credit equal to the amount of the wage assessment withheld. The tax incentives remain in place until the authorized recovery amount (approved cost) is realized or for the term of the tax incentive agreement, whichever occurs first. Unused credits that have been authorized for the project may be carried forward for the term of the tax incentive agreement, however, unused credits expire at the maturity of the agreement.

Targets and Potential Adjustments of Approved Cost for Eligible Projects

The tax incentive agreement will include the total maximum approved costs that may be recovered over the term of the agreement in addition to the annual maximum approved costs for each year of the agreement. Job and wage (including employee benefits) targets higher than the minimum requirements will be negotiated and included in the agreement. These targets will be measured against actual amounts as of the activation date and averaged annually for the company's fiscal year throughout the term of the tax incentive agreement.

- Projects that achieve actual job and wage results equal to or greater than 90 percent of the targets will be eligible to claim 100 percent of the annual maximum approved cost for the following year.
- Projects that achieve actual job and wage results less than 90 percent of the targets will incur a reduction of the annual maximum approved cost for the following year equal to the same proportion by which the project fell below its targets. If both targets are missed, the greater percentage reduction will be required.
- If the eligible costs incurred as of the activation date are less than the maximum approved costs, the maximum approved costs will be reduced to the confirmed amount of eligible costs and the annual maximum approved costs will be modified accordingly.

The Process

- The company makes application to the Kentucky Economic Development Finance Authority (KEDFA) with the assistance of a Project Manager from Business Development.
- The total amount of incentives to be recommended for approval of a project is negotiated with the Cabinet along with the annual maximum incentives available, job targets and wage (including employee benefits) targets as well as any project-specific terms that may apply.
- The project is presented to KEDFA for preliminary approval and, if approved, KEDFA enters into a memorandum of agreement with the company that sets forth the maximum incentives available and the various requirements.
- The company completes its project and provides KEDFA with documentation in connection with the project's eligible costs.
- For projects not located in enhanced incentive counties, a resolution is adopted by the local jurisdiction setting forth its participation prior to final approval of the project.
- The project is presented to KEDFA for final approval at which time a Tax Incentive Agreement is approved by KEDFA that authorizes the incentives for the company and sets forth the terms and conditions.
    - The agreement must be fully negotiated at the time of final approval and all fees due to KEDFA must be paid.
    - The activation date must be identified in the agreement and should be no later than two years from the date of final approval.
- The company activates the Tax Incentive Agreement, initiates its recovery period and begins to utilize the incentives.
- The company submits exhibits annually throughout the term of its project in compliance with the Tax Incentive Agreement.

Fees

A non-refundable application fee of $1,000 is payable upon submission of the KBI application. Prior to final approval, the company will be required to pay an administrative fee equal to one-fourth of one percent (0.25%) of the final KBI amount authorized in the Tax Incentive Agreement up to a maximum of $50,000. In addition, the company will pay all legal fees, including expenses of counsel to KEDFA, necessary for the preparation of the Tax Incentive Agreement.

Cabinet for Economic Development

Kentucky Economic Development
Finance Authority (KEDFA)

Kentucky Business Investment (KBI) Program

2011/2012 ENHANCED INCENTIVE COUNTIES

1. Adair
2. Allen
3. Bath
4. Bell
5. Boyle
6. Bracken
7. Breathitt
8. Breckinridge
9. Bullitt
10. Butler
11. Carter
12. Casey
13. Christian
14. Clay
15. Clinton
16. Crittenden
17. Cumberland
18. Edmonson
19. Elliott
20. Estill
21. Fleming
22. Floyd
23. Fulton
24. Garrard
25. Grayson
26. Green
27. Harlan
28. Harrison
29. Hickman
30. Jackson
31. Johnson
32. Knott
33. Knox
34. Lawrence
35. Lee
36. Leslie
37. Letcher
38. Lewis
39. Lincoln
40. Lyon
41. Magoffin
42. Marion
43. Martin
44. McCreary
45. McLean
46. Meade
47. Menifee
48. Metcalfe
49. Monroe
50. Montgomery
51. Morgan
52. Muhlenberg
53. Nelson
54. Nicholas
55. Owen
56. Owsley
57. Pendleton
58. Perry
59. Powell
60. Pulaski
61. Robertson
62. Rockcastle
63. Russell
64. Spencer
65. Taylor
66. Todd
67. Trigg
68. Trimble
69. Washington
70. Wayne
71. Whitley
72. Wolfe

JUNE 30, 2011 DECERTIFIED ENHANCED INCENTIVE COUNTIES
Must have final approval by July 1, 2014

1. Union

JUNE 30, 2010 DECERTIFIED ENHANCED INCENTIVE COUNTIES
Must have final approval by July 1, 2013

1. Carlisle
2. Graves
3. Pike

JUNE 30, 2009 DECERTIFIED ENHANCED INCENTIVE COUNTIES
Must have final approval by July 1, 2012

1. Ballard
2. Hart
3. Marshall

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