



Just the Facts:

Incentives for Energy-related Business Act (IEBA)

July 2022

This fact sheet provides an overview of the Incentives for Energy-related Business Act (IEBA) program. For a full discussion of the program requirements, please see KRS 154.27. As with all state administered tax incentive programs, any inducements offered to an eligible company under the IEBA program are negotiated by Cabinet for Economic Development officials and subject to approval by the Kentucky Economic Development Finance Authority (KEDFA).

Eligible Companies

Companies whose primary activity to be conducted in Kentucky includes the operation of a cryptocurrency facility may be eligible for IEBA incentives if the minimum investment requirement for eligible projects is met.

Cryptocurrency means a type of virtual currency that utilizes blockchain technology and that can be digitally traded between users or can be converted or exchanged for legal tender. Cryptocurrency facility means a facility located in Kentucky that is utilized in the commercial mining of cryptocurrency or in hosting persons engaged in the commercial mining of cryptocurrency through utilization of the facility's infrastructure, including servers and network hardware powered by Internet bandwidth, electricity, and other such services generally required for such mining operations.

Minimum Investment Requirement and Eligible Investment Costs

To qualify for the incentives available under the IEBA program, an eligible company must make a minimum capital investment of \$1,000,000 in a cryptocurrency facility. Eligible investment costs may include:

- Labor costs incurred in connection with the acquisition, construction, installation, equipping, upgrading or retrofitting of an eligible project
- The cost of acquiring land or rights in land and any cost incident thereto, including recording fees
- The cost of contract bonds and insurance required to establish an eligible project
- Architectural and engineering services related to an eligible project
- All costs required to be paid under the terms of any contract for the acquisition, construction, installation, equipping, upgrading or retrofitting of an eligible project

Incentives

IEBA tax incentives are negotiated and may be available for a period of up to 25 years, up to a maximum of 50 percent of the capital investment amount, via the following recovery methods:

- **Sales and Use Tax** refunds up to 100 percent of tax paid on tangible personal property made to construct, retrofit or upgrade a cryptocurrency facility, including commercial cryptocurrency mining equipment
- **Tax Credits** up to 100 percent of corporate income or Limited Liability Entity Tax liability arising from the project
- **Wage Assessment** incentives up to 4 percent of gross wages of each employee

The Process

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| Pre-Application 45 days prior to KEDFA meeting | The Kentucky Cabinet for Economic Development recommends the company submit a draft application to Business Development project management staff. Business Development project management staff negotiate recommended incentives and requirements. |
| Application Submission 30 days prior to KEDFA meeting | <p>Application, required attachments, and application fee submitted to Business Development project management staff. Application materials may be forwarded to the Office of Energy Policy and the Department of Revenue for review/comments. Additionally, the application materials may be provided to an independent consultant, if necessary.</p> <p>The application must verify the following:</p> <ul style="list-style-type: none"> • Applicant has met all statutory and regulatory requirements • Applicant has secured or is in the process of securing all necessary permits, certificates or approvals • Applicant has a plan that includes a projected number of Kentucky residents to be employed at the facility after completion and during construction |
| KEDFA Meeting/ Preliminary Approval Last Thursday of month, except November and December | <p>Preliminary approval authorizes a Memorandum of Agreement to be entered into between KEDFA and the company (prior to final approval, the applicant shall provide all supporting data requested by KEDFA, secure all required permits or take appropriate steps to do so, and cooperate with KEDFA to obtain opinions or recommendations from any outside consultants). The MOA will be executed by both parties after approval occurs.</p> <p><i>KEDFA is a public meeting.</i></p> |
| KEDFA Meeting/ Final Approval Up to 3 years after preliminary approval | In preparation for final approval, the Tax Incentive Agreement is negotiated to identify the incentive recovery method and amount of incentive. The Tax Incentive Agreement is executed by the company prior to the KEDFA meeting, and administrative fees are required to be paid. A fully executed agreement is provided to the company after KEDFA approval occurs. |
| Activation Not to exceed 5 years after final approval | The Activation Date is the first day the company <u>may begin incurring investment costs eligible for the program</u> and engaging in eligible activities. The Activation Date is also the first day of the term of the agreement. |
| Eligible to Begin Claiming Tax Incentives Company has up to the negotiated term of the Tax Incentive Agreement to recapture approved costs | After Activation, the company may claim tax incentives via the negotiated method of recovery not to exceed approved costs and based on compliance with the Tax Incentive Agreement. |
| Verification Exhibits End of each fiscal year | Company submits annual exhibits within 30 days of fiscal year end to confirm compliance with the Tax Incentive Agreement. |



Fees

There is a \$1,000 non-refundable application fee payable upon submission of the application. Fees that the company may expect to incur as a result of Final Approval include an administrative fee equal to $\frac{1}{4}$ of 1 percent (.25%) with a maximum of \$50,000. In addition, the company will incur other fees in connection with the project, including legal fees and potentially consulting costs.

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