Just the Facts:

Kentucky Business Investment Program

July 2023

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 Cabinet 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).

Enhanced Incentives

Businesses meeting the minimum eligibility criteria may be eligible for incentives through the KBI Program. Projects located in enhanced incentive counties, as well as projects with total investment greater than $200 million, regardless of county location, may request KBI enhanced incentives. Refer to the last page of this document for more information on the enhanced county determination process and a list of enhanced incentive counties.

	Incentives	Enhanced Incentives

Eligible Company	Any business entity engaged in one or more of the following activities:
	• Manufacturing
	• Agribusiness
	• Headquarters operations
	• 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
	
	Non-retail service or technology activities 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
	
	• Coal severing and processing (activities resulting in the company being subject to the tax imposed by KRS Chapter 143)
	• Hospital operations (a facility licensed by the Cabinet for Health and Family Services under KRS 216B for the operation of a hospital and the basic services provided by a hospital)
	• Alternative fuel, gasification, energy-efficient alternative fuels, or renewable energy production
	• Carbon dioxide or hydrogen transmission pipeline	

	Incentives	Enhanced Incentives
Ineligible Business Activities	Eligible company does not include companies where the primary activity to be conducted within the Commonwealth is forestry, fishing, the provision of utilities, construction, wholesale trade, retail trade, real estate, rental and leasing, educational services, accommodation and food services, or public administration services.	
Employment Minimum Requirement	Create a minimum of 10 new, full-time jobs subject to Kentucky individual income tax and maintain an annual average of at least 10 new, full-time jobs subject to Kentucky individual income tax during the term of the incentive agreement. Remote jobs may qualify if the position is held by a Kentucky resident, the job was created as a result of the economic development project, and the payroll of the job is expensed to the project.	
Investment Minimum Requirement	Incur eligible costs of at least $100,000.	
Wage Minimum Requirement	At least 90 percent of the new, full-time employees subject to Kentucky individual income tax must receive hourly wages of at least $10.88 (150 percent of the federal minimum wage).	At least 90 percent of the new, full-time employees subject to Kentucky individual income tax must receive hourly wages of at least $9.06 (125 percent of the federal minimum wage).
Employee Benefit Minimum Requirement	At least 90 percent of the new, full-time employees subject to Kentucky individual income tax must receive total hourly compensation (hourly wages plus employee benefits) of at least $12.51.	At least 90 percent of the new, full-time, employees subject to Kentucky individual income tax must receive total hourly compensation (hourly wages plus employee benefits) of at least $10.42.
	The term "employee benefit" is defined as payments by a 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 new, full-time employees subject to Kentucky individual income tax 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.	
Term of Agreement	Up to 10 Years	Up to 15 Years
Incentive Recovery Method ** The employee receives credits for the fees against state income taxes and local occupational taxes, so there is no impact on the employee	Tax credits up to 100 percent of corporate income or limited liability entity tax liability arising from the project. Wage assessment** incentives up to 60% of Kentucky individual income tax rate and local participation of up to 20% of Kentucky individual income tax rate. If local participation is less than required, then state participation is 3 times local participation. If the local community does not have a local occupational fee, then another form of participation may be required. Local jurisdictions imposing a local occupational fee may request to waive the local occupational fee requirement if the local jurisdiction offers alternative inducements of similar value satisfactory to KEDFA.	Tax credits up to 100 percent of corporate income or limited liability entity tax liability arising from the project. Wage assessment** incentives up to one hundred percent (100%) of the individual income tax rate imposed by KRS 141.020. Although not required for an economic development project located in an enhanced incentive county, a local jurisdiction may agree to forgo all or a portion of its local occupational license fee as a local wage assessment.

	Incentives	Enhanced Incentives
Incentive Recovery Parameters	If each of the 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 minimum requirements are met as of the activation date but are not met at the annual review date(s), the incentives may be suspended or, with the appropriate approval from KEDFA, terminated. If minimum requirements are met, 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 agreement maturity.	

	New Projects	Existing Projects
Certification Requirement	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.

	Owned Projects	Leased Projects
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.	Eligible costs will only include costs incurred after the date of preliminary approval. 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, building/ leasehold improvements and 50 percent of the estimated annual rent payments for each year of the tax incentive agreement. Existing location leased projects considering expansions shall be eligible for incentives only to the extent of the expansion square footage.
Start-Up Costs	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.	
Equipment Costs Limitation	For projects not eligible for enhanced incentives, the cost of equipment eligible for recovery as an eligible cost is limited to $20,000 for each new, full-time job subject to Kentucky individual income tax and created as of the activation date.	

Targets and Potential Adjustments of Approved Cost for Eligible Projects

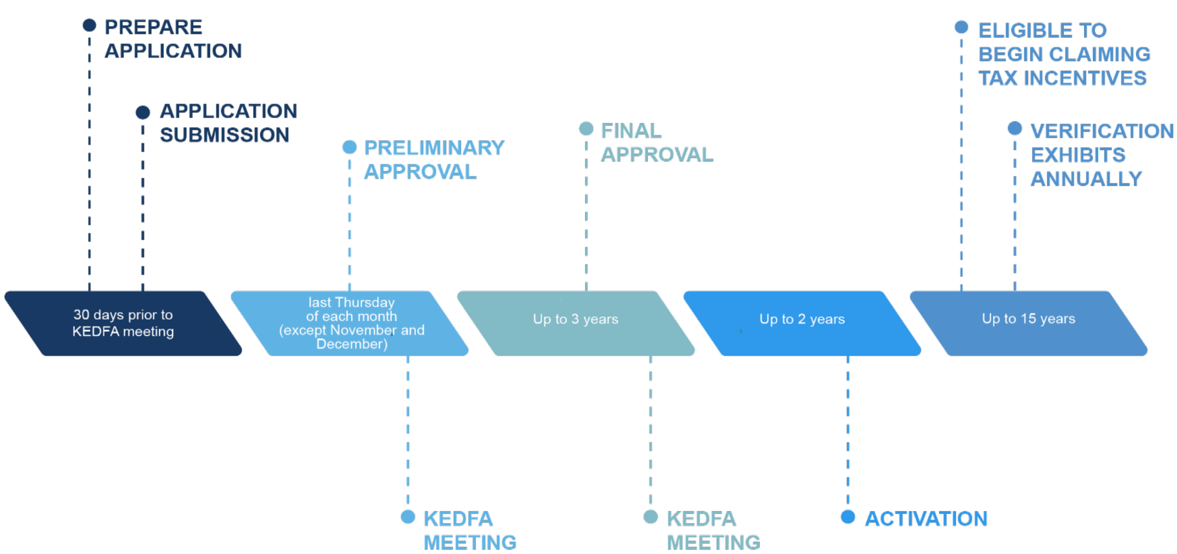
The tax incentive agreement will include the total maximum approved costs that may be recovered over the term of the agreement in addition to the annual maximum approved costs for each year of the agreement. Job and wage (including employee benefits) targets higher than the minimum requirements will 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.

Kentucky Business Investment (KBI) Process	
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	Application, required attachments, and application fee submitted to Business Development project management staff.
KEDFA Meeting/ Preliminary Approval Last Thursday of month, except November and December	Preliminary approval obligates Kentucky to the incentive amount and to grant final approval provided the applicant complies with the provisions of the Memorandum of Agreement (MOA). The MOA outlining Kentucky's financial commitment will be executed by both parties after approval occurs. The approved company **may begin its investment** after approval occurs. *KEDFA is a public meeting. Company name, number of jobs, payroll and investment will be disclosed at the meeting. All other information is confidential and not subject to open records.*
KEDFA Meeting/ Final Approval Up to 3 years after preliminary approval	Prior to the KEDFA meeting, the Tax Incentive Agreement is negotiated and executed by the company, a local resolution is provided (if applicable), and administrative fees are required to be paid. A fully executed agreement is provided to the company after KEDFA approval occurs.
Activation Within 2 years after final approval	The Activation Date is the first day the company **may be eligible to claim incentives** and also the first day of the term of the agreement. The company must meet the minimum job, wage and investment requirements by the Activation Date.

Kentucky Business Investment (KBI) Process	
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 wage assessments and corporate income tax credits 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.

Kentucky Business Investment (KBI) Timeline



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.

Enhanced Incentive Counties

Kentucky counties are designated "enhanced incentive" eligible by meeting at least one of the following three 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 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 incentives.

2023/2024 Enhanced Incentive Counties				
Adair	Crittenden	Jackson	Mason	Pulaski
Ballard	Cumberland	Johnson	McCracken	Robertson
Barren	Edmonson	Knott	McCreary	Rockcastle
Bath	Elliott	Knox	McLean	Rowan
Bell	Estill	LaRue	Meade	Russell
Boyd	Fleming	Laurel	Menifee	Shelby*
Boyle	Floyd	Lawrence	Metcalfe	Spencer*
Bracken	Fulton	Lee	Monroe	Taylor*
Breathitt	Garrard	Leslie	Montgomery	Todd*
Breckinridge	Graves*	Letcher	Morgan	Trigg
Bullitt*	Grayson	Lewis	Muhlenberg	Trimble
Butler	Green	Lincoln	Nicholas	Union
Caldwell*	Greenup	Livingston	Ohio	Warren*
Carlisle	Hancock	Logan*	Owen	Wayne
Carter	Harlan	Lyon*	Owsley	Whitley
Casey	Harrison	Magoffin	Pendleton	Wolfe
Christian	Hart*	Marion	Perry	
Clay	Hickman*	Marshall*	Pike	
Clinton	Hopkins	Martin	Powell	

*As a part of House Bill 303 approved during the 2023 regular session, if a county is not certified according to one of the three aforementioned criteria, a county declared as a disaster relief area by any state or federal agency on or after December 1, 2021 may be designated as enhanced for two years from the date of certification. Counties marked with an asterisk have been added.

June 30, 2023 Decertified Enhanced Incentive Counties – Must have final approval by June 30, 2026	Boyle
June 30, 2022 Decertified Enhanced Incentive Counties – Must have final approval by June 30, 2025	Butler, Carlisle, Garrard, Laurel
June 30, 2021 Decertified Enhanced Incentive Counties – Must have final approval by June 30, 2024	McLean and Union

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