



# Just the Facts:

## Kentucky Reinvestment Act (KRA)

July 2023

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This fact sheet provides an overview of the Kentucky Reinvestment Act (KRA) program. For a full discussion of the program requirements, please see KRS 154.34. As with all state administered tax incentive programs, any inducements offered to an eligible company under the KRA program are negotiated by Cabinet for Economic Development officials and subject to approval by the Kentucky Economic Development Finance Authority (KEDFA).

### Eligible Companies

To be eligible for the KRA program, Kentucky companies must employ, or intend to employ, a minimum of 25 full-time employees as a result of the reinvestment project. Remote jobs may qualify if the full-time 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.

The company must be engaged in, or intending to engage in, one or more of the following activities at a location operating within the Commonwealth on a permanent basis for a reasonable period of time preceding the request for assistance, including facilities where operations have been temporarily suspended if all other program criteria are met:

- Manufacturing
- Agribusiness
- Headquarter operations (regardless of the underlying business activity)
- Nonretail service or technology
- 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 fuel, or renewable energy production
- Carbon dioxide or hydrogen transmission pipeline operations

Eligible company does not include any company for which the primary activity to be conducted in Kentucky 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.

### Minimum Requirements for Eligible Projects

Requirements to qualify for the incentives:

- Incur eligible equipment and related costs of at least \$1,000,000 in eligible equipment and related costs for leased projects or at least \$2,500,000 in eligible equipment and related costs for all other reinvestment projects.
  - » Leased project means an economic development project site occupied by an approved company pursuant to a lease agreement with an unrelated entity, but not including a capital lease.
  - » Owned project (all other reinvestment projects other than leased projects) means an economic development project owned in fee simple by the approved company or an affiliate, or possessed by the approved company or an affiliate pursuant to a capital lease.

- » Eligible equipment and related costs must be related to a qualifying Reinvestment Project which includes the acquisition, construction and installation of new equipment and the construction, rehabilitation and installation of improvements to facilities necessary to house the new equipment.
- » Eligible equipment means manufacturing machinery, equipment, computers, furnishing, fixtures, and other assets installed by the approved company as part of the reinvestment project and approved by KEDFA.
- » Eligible equipment and related costs does not include costs related to the replacement or repair of existing machinery or equipment resulting from normal wear and usage. Rent costs are also not considered an eligible expense.
- Agree to maintain a full-time employment base of at least 85 percent of employment at the facility as of the date of preliminary approval.
- Has not been awarded incentives under the Kentucky Industrial Revitalization Act (KIRA) within the previous five years.
- Applicant must certify that the project would not be economically feasible without the incentives.

## Approved Costs

Approved costs include eligible equipment and related costs that are approved by KEDFA for recovery and which are incurred after the date of preliminary approval through the date of final approval. Approved companies meeting KRA expenditure and employment requirements shall be eligible to recover up to 50 percent of eligible equipment and related costs.

The minimum requirements of incurring eligible equipment and related cost expenditures of at least \$1,000,000 for leased projects and \$2,500,000 for all other projects and maintaining 85 percent of the full-time employment level at the facility must be achieved in order to proceed with final approval.

## Incentive

A tax incentive is available for up to 10 years from the date of final approval via:

- Tax credits up to 100 percent of corporate income or limited liability entity tax liability generated by or arising from the project.

The tax incentive remains in place until the authorized incentive amount is realized (up to 20 percent of the incentive per year) or for the term of the reinvestment agreement (up to 10 years), whichever occurs first. Unused credits that have been authorized for the project may be carried forward for the term of the reinvestment agreement, however, unused credits expire at the maturity of the agreement.

## The Process

- The company makes application to the Kentucky Economic Development Finance Authority (KEDFA).
- The job creation or preservation percentage and approved cost are negotiated with the Cabinet and presented to KEDFA for approval.
- If KEDFA designates the applicant as a preliminarily approved company, it authorizes its project and 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.
- A Reinvestment 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.
- An independent consultant may be employed, at the applicant’s cost, to verify eligible costs of the project.
- The company must complete the reinvestment project and receive final approval within three years of preliminary approval.
- The company submits exhibits annually throughout the term of its Reinvestment Agreement to confirm compliance with its terms.

**Fees**

A non-refundable application fee of \$1,000 is payable upon submission of the KRA application. Prior to final approval, the company will be required to pay an administrative fee equal to one-fourth of one percent (0.25 percent) of the final KRA amount authorized in the Reinvestment 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 Reinvestment Agreement.

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