



Cabinet for Economic Development

Kentucky Small Business Investment Credit (KSBIC) Program Guidelines

The **Kentucky Small Business Investment Credit (KSBIC) Program**, authorized under Kentucky Revised Statute (KRS) [154.60](#)-010, et. seq., allows eligible small businesses paying taxes imposed by KRS [141.020](#) (income tax on individuals), [141.040](#) (corporation income tax), or [141.0401](#) (limited liability entity tax) to apply for a Kentucky state tax credit. Subject to a statutory limit of \$3,000,000 per state fiscal year, this program provides a nonrefundable state tax credit of \$3,500 - \$25,000 for small businesses that create and fill one or more eligible positions and invest \$5,000 or more in qualifying equipment or technology.

Eligible Applicants

Any for-profit small business including sole proprietorships, partnerships, limited partnerships, corporations, limited liability companies, joint ventures, associations, or cooperatives that has fifty (50) or fewer full-time employees at the time of application, excluding newly created eligible positions, and that is not an affiliate or subsidiary of a larger corporate structure, unless the total number of employees of all the affiliates and subsidiaries within that structure is fifty (50) or fewer, with the exception of ineligible business types listed below, is eligible to apply.

The following business types are ineligible for this program:

- Businesses engaged in any type of illegal activity;
- Businesses in default on any federal, state, or local taxes; not in good standing with the Kentucky Secretary of State's office (if required to be registered with that office); or that do not hold all current licenses, permits, and registrations necessary to legally operate a business in Kentucky;
- Businesses presenting live performances of a prurient sexual nature or deriving more than 5 percent of annual gross revenue through the sale or rental of products or services, or the depiction of any displays, of a prurient sexual nature;
- Businesses principally engaged in overt religious indoctrination;
- Businesses deriving more than 50 percent of annual gross revenues from lobbying activities.

Businesses that have received Kentucky Economic Development Finance Authority (KEDFA) approved loans, grants, or tax incentives that were based on job creation and/or equipment purchases cannot apply for a tax credit through this program if the eligible position(s) and/or qualifying equipment included in this application were used as the basis to claim a tax credit or financed with grant or loan funds under another KEDFA program.

Program Requirements

Businesses are not eligible to apply until the date 1) one year after an eligible position or positions have been created and filled or 2) one year after they have purchased \$5,000 or more of qualifying equipment and technology, which ever occurs last (the "Eligibility Date"). The applicant business must create at least one new eligible position and invest \$5,000 or more in qualifying equipment or technology after December 31, 2009.

Eligible Position

An Eligible Position:

- increases the base employment of the business;
- is a newly created position in the business that has never before been filled, or is a previously created position that has been continuously vacant for a minimum of twelve consecutive months immediately prior to the hiring of an employee to fill the position;
- is filled by an employee subject to the Kentucky income tax imposed by [KRS 141.020](#);
- is filled by an employee working an average of 35 or more hours per week for a period of twelve months; and
- pays a base hourly wage including tips and commissions, but excluding benefits, reimbursements and bonuses, of at least 150 percent of the federal minimum wage in effect at the time of application. The federal minimum wage can be found at <http://www.dol.gov/WHd/minimumwage.htm>.

Calculation of the average hours per week worked includes all paid hours (work hours and paid leave hours) during the first twelve months of employment.

For a business applying for the first time, base employment is calculated on December 31 of the base year of the business, which is January 1 - December 31, 2009, for businesses in existence as of January 1, 2009. For businesses started after January 1, 2009, base employment is calculated on Decembr 31st following the first full year of operation.

If a business applies for a tax credit through this program more than once, the number of eligible positions upon which the prior tax credit was based will be added to the base employment calculation. The new base employment figure will be the greater of this number or the number of employees on December 31 of the year immediately prior to the year in which the eligible position or positions were created and filled. Base employment is calculated on full-time employees.

If the employee hired in the eligible position ceases for any reason to be employed by the employer, the position may still be eligible if another full-time employee is hired to fill the position within thirty days of the last work day of the first employee.

Qualifying Equipment or Technology

Qualifying equipment or technology is defined as:

- tangible property purchased by the applicant business for use in the business (not for resale or personal use);
- tangible property with a per-unit cost of a minimum \$300 excluding rebates and refunds (the per-unit cost does not include tax, labor, installation, delivery or similar charges);
- tangible property with an expected useful life of more than one year.

Examples of qualifying equipment or technology (if it meets the above criteria) include: computer equipment, furniture, fixtures, furnishings (excluding artwork), and vehicles titled in the legal name of the business. Real property, buildings, and consumable supplies are excluded from the list of qualifying equipment and technology. The applicant business must certify that it still owns qualifying equipment and technology at the time the 1% administrative fee is paid prior to submission to KEDFA.

The tax credit amount will be equal to \$1,000 multiplied by the number of eligible positions plus 50 percent of the actual purchase price of qualifying equipment or technology, not to exceed \$3,500 per eligible position.

Time Frame

Applications will be accepted starting in January 2011 for eligible positions filled and qualifying equipment purchased after December 31, 2009. Applicants have 90 calendar days after the Eligibility Date to apply for a tax credit. Applications submitted within the 90 days but not initially approved maybe held for consideration up to one year after the Eligibility Date. If the application is not submitted within 90 days or is not approved within one year after the Eligibility Date, the applicant will no longer be eligible to apply for a tax credit for the eligible position listed in the application.

Example: Company A has 10 employees. On February 1, 2010, Company A creates a new position and hires a new employee to fill the position. On December 1, 2010, Company A purchases \$5,000 worth of qualifying equipment and technology. On December 1, 2011, Company A has met the minimum qualifying requirements because the eligible position has been filled for twelve months and a year has passed since the minimum required amount of qualifying equipment and technology has been purchased. Company A has through February 29, 2012, (90 calendar days from December 1) to submit an application for a tax credit through this program. If the application is not submitted by February 29, 2012, Company A forfeits the opportunity to apply for a tax credit for this position.

If Company A submits a timely application that meets all program criteria, the application will be scored and ranked as described below. If the application ranks high enough and sufficient tax credit allocations are available, it will be submitted to KEDFA for approval after Company A pays the 1 percent administrative fee and certifies that its employment is one full-time position over the base employment and that Company A still owns the qualifying equipment and technology. If the application does not rank high enough to be submitted to KEDFA during the initial application period, it will be held and considered in subsequent application periods until December 1, 2012 (one year after the Eligibility Date). If the application has not ranked high enough to qualify for a tax credit by this date, Company A will not be eligible to receive a tax

credit for this position. In general, applicants should strongly consider applying for a tax credit as soon as possible after meeting eligibility requirements. Delaying the submission of an application may reduce the opportunity to receive a tax credit.

The Application Process

1. Applicant fulfills at least the minimum program requirements and then submits a KSBIC application and supporting documentation in accordance with the instructions.
2. Small Business Services Division personnel will review the KSBIC application and supporting documentation. If the application is complete and supporting documentation provides verification of eligibility, the dollar amount of tax credit eligibility will be determined and the application will receive a score in accordance with KSBIC scoring criteria. (Refer to the **Tax Credit Incentive Formula** section of this document for information on how the dollar amount of tax credit eligibility is calculated. Refer to the **Scoring Criteria** section of this document for additional information on scoring methodology.) Applications will be ranked from highest to lowest score. If the application is incomplete or the applicant does not meet the minimum program qualifications, Small Business Services Division personnel will contact the applicant for further discussion.
3. The highest ranked applications will be selected for submission to the Kentucky Economic Development Finance Authority (KEDFA) for final review and approval. The number of applications selected for submission to KEDFA will depend upon the dollar amount of tax credits available. A program maximum of \$3,000,000 in tax credits may be awarded each state fiscal year (July 1 to June 30). Once \$3,000,000 in tax credits have been allocated in a state fiscal year, no further applications will be selected for submission to the KEDFA board until a new state fiscal year begins. Tax credits will be allocated throughout the year based on a schedule to be determined by KEDFA. Applications that do not rank high enough to be selected for tax credit approval at initial submission will be held for consideration at subsequent KEDFA meetings, subject to funding availability and the one year time limit for approval after the Eligibility Period.
4. After selection for submission but prior to actual submission to KEDFA, Small Business Services Division personnel will notify the applicant of preliminary selection for submission. An administration fee of 1 percent of the qualifying tax credit amount will be due if the application is selected for submission to KEDFA. Applications will not be submitted to KEDFA until the administration fee has been paid. At the time the administration fee is paid, the applicant must also provide certification (in a form provided by the Small Business Services Division) that they still own the qualifying equipment or technology and that the current full-time employment of the applicant business is greater than the base employment of the business (plus any eligible positions that have been previously approved for a tax credit, if applicable). Businesses that cannot provide this certification are ineligible for a tax credit. After the certification has been received and the fee has been paid, selected applications will be submitted to KEDFA for final review and approval.
5. KEDFA will review applications and approve the eligible tax credits, not to exceed \$25,000 per business per state fiscal year and not to exceed \$3,500 per eligible position.

6. If KEDFA approves a KSBIC tax credit, the Kentucky Department of Revenue will be notified that the approved business is authorized to claim a small business tax credit in the approved amount. Tax credits approved under this program must be claimed on the tax return for the taxable year (beginning after December 31, 2010) during which the credit was approved. Unused credits may be carried forward up to five years. Businesses with specific questions about how to apply tax credits approved through this program and/or what impact the tax credit may have on the business' taxes should contact the [Kentucky Department of Revenue](#) and/or the business' tax preparer.

Note: Eligibility for a tax credit under this program and submission of required documents does not guarantee that an application will be approved. The program cap of \$3,000,000 per fiscal year may prevent some otherwise eligible businesses from receiving a tax credit.

Tax Credit Incentive Formula

Applicants meeting minimum program requirements will be eligible to receive a tax credit based on the following formula:

$(\$1,000 \times \text{Number of qualifying positions in application}) + (50 \text{ percent of the actual purchase price of qualifying equipment or technology}) = \text{eligible tax credit amount (not to exceed } \$3,500 \text{ per eligible position or } \$25,000 \text{ per business per fiscal year)}$

Example: Company B submits an application with two qualifying positions and documentation showing \$8,000 worth of qualifying equipment and technology. Company B would be eligible for a \$6,000 tax credit, computed as follows:

$(\$1,000 \times 2 \text{ eligible positions}) + (50 \text{ percent of } \$8,000) = \$2,000 + \$4,000 = \$6,000$

Note that the total credit per eligible position (\$6,000/2=\$3,000) is less than \$3,500, the maximum available credit per eligible position.

Scoring Criteria

All applications that meet the minimum program requirements will receive scores based on the following four categories. The scores in each category will be added to obtain a total score.

1. Dollar amount of investment in qualifying equipment or technology that was purchased from a physical business location in Kentucky (supporting documentation must verify location):

Dollar Amount of Qualifying Equipment or Technology Purchased From a Physical Business Location in Kentucky	Points
\$2,500 - \$14,999	5
\$15,000 - \$24,999	10
\$25,000 - \$34,999	15
\$35,000 - \$44,999	20
\$45,000 or more	25

2. Dollar amount of the base hourly wage for eligible position(s) (if more than one eligible position is included in the application, the base hourly wage for all eligible positions combined will be used):

Base Hourly Wage for Eligible Position(s)	Points
\$12.00 - \$13.99	5
\$14.00 - \$15.99	10
\$16.00 - \$17.99	15
\$18.00 - \$19.99	20
\$20.00 or more	25

3. Businesses that create and fill one or more eligible positions in enhanced incentive counties will be eligible for bonus points. Enhanced incentive counties consist of: (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 meeting a three-part test (three-year unemployment, education attainment and road quality). Counties designated on the map at <http://www.thinkkentucky.com/ksbic/pdfs/KSBICProgramMap.pdf> at time of application qualify as enhanced incentive counties.

Number of Eligible Positions Created And Filled in An Enhanced Incentive County	Bonus Points
1-2	10
3-5	20
6 or more	30

4. Businesses that have not previously been approved for a tax credit through the Kentucky Small Business Investment Credit (KSBIC) program will be eligible for bonus points.

Has the Applicant Business Previously Been Approved for a Tax Credit Through KSBIC?	Bonus Points
No	10