

#### **154.20-200 Definitions for KRS 154.20-200 to 154.20-216.**

As used in KRS 154.20-200 to 154.20-216, unless the context clearly indicates otherwise:

- (1) "Agreement" means any agreement made pursuant to KRS 154.20-210 between the authority and an approved company with respect to an economic development project in which inducements are granted.
- (2) "Approval" means action taken by the authority that authorizes the eligible company to receive inducements in connection with an economic development project under KRS 154.20-200 to 154.20-216 and that designates the eligible company as an approved company.
- (3) "Approved company" means an eligible company that initiates an economic development project in the Commonwealth whose application has been approved by the authority.
- (4) "Approved expense" means:
  - (a) For an approved company that establishes a new facility or expands an existing facility:
    1. The cost of building and construction materials, upon which Kentucky sales and use tax as defined in KRS Chapter 139 is paid, purchased in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and
    2. The cost of equipment purchased and used in research and development, at the economic development project, upon which Kentucky sales and use tax as defined in KRS Chapter 139 is paid.
  - (b) Approved expenses may only be incurred during the life of the project, not to exceed eighteen (18) months from the date an eligible company is designated an approved company by the authority. Provided, however, that the authority may grant a twelve (12) month extension of the project for good cause shown. Approved expenses shall not include any expenditure made before the date the company is approved by the authority.
- (5) "Authority" means the Kentucky Economic Development Finance Authority.
- (6) "Economic development project" or "project" means a new or expanded service or technology, manufacturing, or tourism attraction activity, conducted by the approved company at a specific site in the Commonwealth, including the acquisition of real property by an approved company and the construction, installation, and rehabilitation of fixtures, and facilities, necessary or desirable for improvement of real estate owned, used, or occupied by the approved company, excluding the cost of labor. The minimum investment for an economic development project located in a preference zone shall be one hundred thousand dollars (\$100,000) and for a project not located in a preference zone, five hundred thousand dollars (\$500,000).
- (7) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, or other legal entity that is primarily engaged in manufacturing, service or technology, or operating or developing a tourism attraction. Any company whose primary purpose is retail sales

shall not be an eligible company.

- (8) "Equipment used in research and development" means:
- (a) "Equipment" means assets used in the operation of a business which are subject to depreciation under Sections 167 and 168 of the Internal Revenue Code, including assets which are expensed under Section 179 of the Internal Revenue Code. The term "equipment" shall not include any tangible personal property used to maintain, restore, mend, or repair machinery or equipment, consumable operating supplies, office supplies, or maintenance supplies; and
  - (b) "Research and development" means experimental or laboratory activity that has as its ultimate goals the development of new products, the improvement of existing products, the development of new uses for existing products, or the development or improvement of methods for producing products. "Research and development" does not include testing or inspection of materials or products for quality control purposes, efficiency surveys, management studies, consumer surveys, or other market research, advertising or promotional activities, or research in connection with literary, historical or similar projects.
- (9) "Inducements" means the sales and use tax refund allowed to an approved company for approved expenses under KRS 154.20-200 to 154.20-216.
- (10) "Life of the project" or "project life" means the eighteen (18) month period beginning on the date the company is designated as an approved company by the authority and the twelve (12) month extension if the extension is granted by the authority.
- (11) (a) "Manufacturing" means to make, assemble, process, produce, or perform any other activity that changes the form or conditions of raw materials and other property, and shall include any ancillary activity to the manufacturing process, such as storage, warehousing, distribution, and related office facilities;
- (b) "Manufacturing" does not include any activity involving the performance of work classified by the divisions, including successor divisions, of mining in accordance with the "North American Industry Classification System," as revised by the United States Office of Management and Budget from time to time, or any successor publication.
- (12) "Preference zone" or "zone" means the geographic area that was designated as an enterprise zone pursuant to KRS 154.45-050, and that was in existence as an enterprise zone on December 31, 2003. No enterprise zone may be expanded after March 18, 2005. Enterprise zone designations that are scheduled to expire, pursuant to KRS 154.45-050(2), shall expire as scheduled. All preference zones shall expire on December 31, 2007.
- (13) "Sales and use tax" means those taxes paid to the Commonwealth for the purchase of goods pursuant to KRS Chapter 139.
- (14) (a) "Service or technology" means either:
- 1. Any activity involving the performance of work except work classified by the divisions, including successor divisions, of agriculture, forestry and fishing, mining, utilities, construction, manufacturing, wholesale

trade, retail trade, real estate rental and leasing, educational services, accommodation and food services, and public administration in accordance with the "North American Industry Classification System," as revised by the United States Office of Management and Budget from time to time, or any successor publication; or

2. Regional or headquarters operations of an entity engaged in an activity listed in subparagraph 1. of this paragraph.

(b) Notwithstanding paragraph (a) of this subsection, "service or technology" shall not include any activity involving the performance of work by an individual who is providing direct service to the public pursuant to a license issued by the state or an association that licenses in lieu of the state.

(15) "Tourism attraction" shall have the meaning assigned in KRS 148.851.

**Effective:** July 12, 2006

**History:** Amended 2006 Ky. Acts ch. 149, sec. 214, effective July 12, 2006. -- Created 2005 Ky. Acts ch. 168, sec. 36, effective March 18, 2005.

**Legislative Research Commission Note** (3/18/2005). 2005 Ky. Acts ch. 168, sec. 165, provides that this section shall apply to tax years beginning on or after January 1, 2005.