

**154.23-045 Application of eligible company to become approved company and expand existing business -- Base levels for eligible credits -- Exemption of employees from assessment -- Increase in number of employees at site -- Tax -- Additional agreements.**

- (1) If an eligible company operates an existing business in a qualified zone, and wishes to expand that business within the zone, the eligible company may submit an application to the authority to become an approved company under KRS 154.23-025.
- (2) If the eligible company under subsection (1) of this section becomes an approved company, the authority shall determine a base level of employment in the Commonwealth, a base level of state income tax liability, a base level of limited liability entity tax liability under KRS 141.0401, and a base level of manufacturing or service or technology activity, as applicable, of the approved company for determining eligible credits for the approved company's project during the term of a tax incentive agreement or service and technology agreement. The base level shall be determined by taking into consideration any seasonal fluctuations or aberrations of employment levels during the preceding three (3) years. Notwithstanding the determination of a base level of employment in the Commonwealth, no qualified statewide employee who is an employee of this business prior to the date of the preliminary approval by the authority as prescribed in KRS 154.23-030 shall be subject to assessment.
- (3) The authority shall identify, by name, all of the existing qualified statewide employees employed by the eligible company prior to preliminary approval, and these employees shall be exempt from the assessment. If any of these employees cease working in the activity, then another qualified statewide employee shall be added to the base level of employment, based on the earliest date of entry into the workforce, and this employee shall be exempt from the assessment. The authority may negotiate with the approved company a different method of determining the base level of employment that would yield a more equitable result for the approved company, the Commonwealth, local jurisdictions, and the qualified statewide employees.
- (4) To become eligible for inducements, the approved company shall create and maintain above the base level of employment in the Commonwealth, an increase at the site of the project of at least ten (10) new full-time qualified employees.
- (5) The approved company shall continue to pay to the Commonwealth, on an annualized basis during the term of the tax incentive agreement or service and technology agreement, as applicable, the base level of income tax, and the limited liability entity tax imposed under KRS 141.0401, adjusted on an annual basis to reflect changes in the consumer price index. The excess income tax and limited liability entity tax imposed under KRS 141.0401 owed may be offset by the income tax credit provided in KRS 154.23-050.
- (6) If any approved company expands in a qualified zone because of an increase in business or because of the commencement of a new line of business, it may be eligible, at the discretion of the authority, to negotiate a separate, additional tax

incentive agreement or service and technology agreement to cover the expanded business under the same conditions as authorized for an expansion in this section.

**Effective:** June 28, 2006

**History:** Amended 2006 (1st Extra. Sess.) Ky. Acts ch. 2, sec. 49, effective June 28, 2006. -- Amended 2002 Ky. Acts ch. 338, sec. 30, effective July 15, 2002. -- Created 2000 Ky. Acts ch. 528, sec. 9, effective July 14, 2000.

**Legislative Research Commission Note** (6/28/2006). 2006 (1st Extra Sess.) Ky. Acts ch. 2, sec. 73, provides that "unless a provision of this Act specifically applies to an earlier tax year, the provisions of this Act shall apply to taxable years beginning on or after January 1, 2007."