

### **154.34-010 Definitions for subchapter.**

As used in this subchapter:

- (1) "Approved company" means an eligible company approved for a reinvestment project;
- (2) "Approved costs" means the sum of the:
  - (a) Eligible equipment and related costs; and
  - (b) Eligible skills upgrade training costs;approved by the authority that may be recovered by an approved company through the incentives authorized by this subchapter;
- (3) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;
- (4) "Commonwealth" means the Commonwealth of Kentucky;
- (5) "Department" means the Department of Revenue;
- (6) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, or any other entity engaged in manufacturing at a facility located and operating within the Commonwealth on a permanent basis for a reasonable period of time preceding the request for approval of a reinvestment project by the authority;
- (7) (a) "Eligible equipment and related costs" means:
  1. Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, rehabilitation, and installation of a reinvestment project;
  2. The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, equipping, rehabilitation, and installation of a reinvestment project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;
  3. All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, equipping, rehabilitation, and installation of a reinvestment project;
  4. All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, rehabilitation, and installation of a reinvestment project;
  5. All costs required for the installation of utilities, including but not limited to water, sewer, sewer treatment, gas, electricity, communications, and access to transportation, and including off-site construction of the facilities paid for by the approved company; and

6. All other costs of a nature comparable to those described in this paragraph.
- (b) "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 of the machinery;
- (8) "Eligible skills upgrade training costs" means costs incurred by an approved company in connection with an occupational training program for full-time employees specifically related to training or retraining employees as part of the reinvestment project, including the following:
  - (a) Fees or salaries paid to instructors, whether those instructors are employees of the approved company, contractors, or consultants;
  - (b) Administrative fees paid to educational institutions;
  - (c) Amounts paid for supplies, materials, and equipment used exclusively for the occupational training program;
  - (d) Amounts paid to lease a training facility if sufficient training space is not available at the approved company or at an educational institution;
  - (e) Amounts paid to employees as wages for attending the occupational training program;
  - (f) Amounts paid for travel expenses for employees; and
  - (g) All other costs of a nature comparable to those described in this subsection;
- (9) "Equipment" means manufacturing machinery installed by the approved company as part of the reinvestment project;
- (10) "Final approval" means the action taken by the authority designating a preliminarily approved eligible company as an approved company;
- (11) "Full-time" means a minimum of thirty-five (35) hours per week;
- (12) "Kentucky gross profits" has the same meaning as in KRS 141.0401;
- (13) "Kentucky gross receipts" has the same meaning as in KRS 141.0401;
- (14) "Manufacturing" means any activity involving the processing, assembling, or production of any property, including activities that result in a change in the condition of the property. "Manufacturing" includes any activity or function related to the manufacturing activity, including storage, warehousing, distribution, and related office facilities;
- (15) "Preliminary approval" means the action taken by the authority designating an eligible company as a preliminarily approved company;
- (16) "Reinvestment agreement" means the agreement entered into pursuant to KRS 154.34-080 between the authority and an approved company with respect to a reinvestment project; and
- (17) "Reinvestment project" means:
  - (a) A reinvestment in the physical plant of a manufacturing facility, and in the full-time employees of a manufacturing facility, through:
    1. The acquisition, construction, and installation of new equipment and,

with respect thereto, the construction, rehabilitation, and installation of improvements to facilities necessary to house the new equipment, including surveys; installation of utilities, including water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; or off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located; and

2. The development of an occupational training program to train or retrain the full-time employees of the company to support the reinvestment in the manufacturing facility, if applicable, for the purpose of improving the economic and operational situation of a company; and
- (b) The expenditure of at least two million five hundred thousand dollars (\$2,500,000) in eligible equipment and related costs.

**Effective:** June 26, 2009

**History:** Amended 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 1, effective June 26, 2009. -- Amended 2006 (1st Extra. Sess.) Ky. Acts ch. 2, sec. 61, effective June 28, 2006. -- Amended 2006 Ky. Acts ch. 149, sec. 221, effective July 12, 2006. -- Created 2003 Ky. Acts ch. 148, sec. 1, effective June 24, 2003.

**Legislative Research Commission Note (6/26/2009).** 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 7, provides that, notwithstanding the amendments contained in Sections 1 to 6 of that Act (which includes this statute), "all reinvestment projects preliminarily approved on or after the effective date of this Act shall not be eligible for final approval until July 1, 2010"; and 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 8, provides that, notwithstanding the amendments in Sections 1 to 6 of that Act or the repeals in Section 114 of that Act, "all reinvestment projects preliminarily or finally approved prior to the effective date of this Act shall be governed by Subchapter 34 of KRS Chapter 154 as it existed prior to the effective date of this Act."

**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."