

141.040 Corporation income tax -- Exemption -- Rate.

- (1) Every corporation doing business in this state, except those corporations listed in paragraphs (a) to (i) of this subsection, shall pay for each taxable year a tax to be computed by the taxpayer on taxable net income or the alternative minimum calculation computed under this section at the rates specified in this section:
 - (a) Financial institutions, as defined in KRS 136.500, except bankers banks organized under KRS 286.3-135;
 - (b) Savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only;
 - (c) Banks for cooperatives;
 - (d) Production credit associations;
 - (e) Insurance companies, including farmers or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;
 - (f) Corporations or other entities exempt under Section 501 of the Internal Revenue Code;
 - (g) Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit;
 - (h) Corporations whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, provided that:
 1. The property consists of the final printed product, or copy from which the printed product is produced; and
 2. The corporation has no individuals receiving compensation in this state as provided in KRS 141.120(8)(b); and
 - (i) For all taxable years except those beginning after December 31, 2004, and before January 1, 2007, S corporations.
- (2) For tax years ending before January 1, 1990, the following rates shall apply:
 - (a) Three percent (3%) of the first twenty-five thousand dollars (\$25,000) of taxable net income;
 - (b) Four percent (4%) of the amount of taxable net income in excess of twenty-five thousand dollars (\$25,000), but not in excess of fifty thousand dollars (\$50,000);
 - (c) Five percent (5%) of the amount of taxable net income in excess of fifty thousand dollars (\$50,000), but not in excess of one hundred thousand dollars (\$100,000);
 - (d) Six percent (6%) of the amount of taxable net income in excess of one hundred thousand dollars (\$100,000), but not in excess of two hundred fifty thousand dollars (\$250,000); and
 - (e) Seven and twenty-five one hundredths percent (7.25%) of the amount of taxable net income in excess of two hundred fifty thousand dollars (\$250,000).

- (3) For tax years beginning after December 31, 1989, and before January 1, 2005, the following rates shall apply:
- (a) Four percent (4%) of the first twenty-five thousand dollars (\$25,000) of taxable net income;
 - (b) Five percent (5%) of the amount of taxable net income in excess of twenty-five thousand dollars (\$25,000) but not in excess of fifty thousand dollars (\$50,000);
 - (c) Six percent (6%) of the amount of taxable net income in excess of fifty thousand dollars (\$50,000), but not in excess of one hundred thousand dollars (\$100,000);
 - (d) Seven percent (7%) of the amount of taxable net income in excess of one hundred thousand dollars (\$100,000), but not in excess of two hundred fifty thousand dollars (\$250,000); and
 - (e) Eight and twenty-five one hundredths percent (8.25%) of the amount of taxable net income in excess of two hundred fifty thousand dollars (\$250,000).
- (4) For tax years beginning before January 1, 1990, and ending after December 31, 1989, the tax shall be the sum of the amounts determined in paragraphs (a) and (b) as follows:
- (a) Apply the tax rates in subsection (2) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from the first day of the taxable year through December 31, 1989, and the denominator of which is the total number of days of the taxable year; and
 - (b) Apply the tax rates in subsection (3) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from January 1, 1990, through the last day of the taxable year and the denominator of which is the total number of days of the taxable year.
- (5) For taxable years beginning after December 31, 2004, and before January 1, 2007, corporations subject to the tax imposed by this section shall pay the greater of the tax computed under paragraph (a) of this subsection, the tax computed under paragraph (b)1. or 2. of this subsection, or the minimum tax imposed by subsection (7) of this section. The tax computed under this subsection is as follows:
- (a)
 - 1. Four percent (4%) of the first fifty thousand dollars (\$50,000) of taxable net income;
 - 2. Five percent (5%) of taxable net income over fifty thousand dollars (\$50,000) up to one hundred thousand dollars (\$100,000); and
 - 3. Seven percent (7%) of taxable net income over one hundred thousand dollars (\$100,000); or
 - (b) An alternative minimum calculation of an amount equal to the lesser of the amount computed under subparagraph 1. or 2. of this paragraph:
 - 1. The gross receipts calculation contained in subsection (11) of this

section; or

2. The gross profits calculation contained in subsection (12) of this section.

- (6) For taxable years beginning on or after January 1, 2007, the following rates shall apply:
 - (a) Four percent (4%) of the first fifty thousand dollars (\$50,000) of taxable net income;
 - (b) Five percent (5%) of taxable net income over fifty thousand dollars (\$50,000) up to one hundred thousand dollars (\$100,000); and
 - (c) Six percent (6%) of taxable net income over one hundred thousand dollars (\$100,000).
- (7) For taxable years beginning on or after January 1, 2005, and before January 1, 2007, a minimum of one hundred seventy-five dollars (\$175) shall be due for the taxable year from each corporation subject to the tax imposed by this section, regardless of the application of any tax credits provided under this chapter or any other provision of the Kentucky Revised Statutes for which the business entity may qualify.
- (8) The alternative minimum calculation portion of the tax computation provided in subsection (5) of this section shall not apply to:
 - (a) Public service corporations subject to tax under KRS 136.120;
 - (b) Open-end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940;
 - (c) Any property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;
 - (d) An alcohol production facility as defined in KRS 247.910; and
 - (e) For taxable years beginning after December 31, 2005, and before January 1, 2007, political organizations as defined in Internal Revenue Code Section 527 and related regulations.
- (9) For taxable years beginning after December 31, 2004, and before January 1, 2007:
 - (a) As used in this subsection, "qualified exempt organization" means an entity listed in subsection (1)(a) to (h) of this section and shall not include any entity whose exempt status has been disallowed by the Internal Revenue Service.
 - (b) Notwithstanding any other provisions of this section or KRS 141.010, any corporation of the type listed in KRS 141.010(24)(b)2. to 8. that is owned in whole or in part by a qualified exempt organization shall, in calculating its taxable net income, gross receipts, or Kentucky gross profits, exclude the proportionate share of its taxable net income, gross receipts, or Kentucky gross profits attributable to the ownership interest of the qualified exempt organization.
 - (c) Any corporation that reduces taxable net income, gross receipts, or Kentucky gross profits in accordance with paragraph (b) of this subsection shall disregard the ownership interest of the qualified exempt organization in determining the amount of credit available under KRS 141.420.
 - (d) The Department of Revenue may promulgate an administrative regulation to

further define "qualified exempt organization" to include an entity for which exemption is constitutionally or legally required, or to exclude any entity created primarily for tax avoidance purposes with no legitimate business purpose.

- (10) For taxable years beginning after December 31, 2004, and before January 1, 2007:
- (a) To the extent that a corporation identified in KRS 141.010(24)(b)2. to 8. is doing business in this state, any member, shareholder or partner of the corporation may elect to pay, on behalf of the corporation, his, her or its proportionate share of the tax imposed by this section against the corporation. If an election is made, the electing member, shareholder or partner shall be treated in the same manner as the corporation regarding the proportionate part of the tax paid by the member, shareholder or partner. An election made pursuant to this subsection shall not:
 - 1. Be used by the Department of Revenue or the taxpayer to assert that the party making the election is doing business in Kentucky;
 - 2. Result in an increase of the amount of credit allowable under KRS 141.420; or
 - 3. Apply to any corporation that is required to be included in a consolidated return under KRS 141.200(2) to (5) and (9) to (12).
 - (b) The Department of Revenue shall prescribe forms and promulgate regulations to execute and administer the provisions of this subsection.
- (11) The alternative minimum calculation for gross receipts shall be:
- (a) For taxable years beginning on or after January 1, 2005, and before January 1, 2006, nine and one-half cents (\$0.095) per one hundred dollars (\$100) of the corporation's Kentucky gross receipts; and
 - (b) For taxable years beginning on or after January 1, 2006, and before January 1, 2007:
 - 1. If the corporation's gross receipts from all sources are three million dollars (\$3,000,000) or less, the alternative minimum calculation shall be zero;
 - 2. If the corporation's gross receipts from all sources are greater than three million dollars (\$3,000,000) but less than six million dollars (\$6,000,000), the alternative minimum calculation shall be nine and one-half cents (\$0.095) per one hundred dollars (\$100) of the corporation's Kentucky gross receipts, reduced by an amount equal to two thousand eight hundred fifty dollars (\$2,850) multiplied by a fraction, the numerator of which is six million dollars (\$6,000,000) less the amount of the corporation's Kentucky gross receipts for the taxable year, and the denominator of which is three million dollars (\$3,000,000), but in no case shall the result be less than zero;
 - 3. If the corporation's gross receipts from all sources are equal to or greater than six million dollars (\$6,000,000), the alternative minimum calculation shall be nine and one-half cents (\$0.095) per one hundred

dollars (\$100) of the corporation's Kentucky gross receipts.

In determining eligibility for the reductions contained in this paragraph when the alternative minimum calculation is computed on a consolidated return, the gross receipts of the affiliated group shall include the total gross receipts from all sources of the affiliated group, including eliminating entries for transactions among the group.

(12) The alternative minimum calculation for gross profits shall be:

- (a) For taxable years beginning on or after January 1, 2005, and before January 1, 2006, seventy-five cents (\$0.75) per one hundred dollars (\$100) of the corporation's Kentucky gross profits; and
- (b) For taxable years beginning on or after January 1, 2006, and before January 1, 2007:
 1. If the corporation's gross profits from all sources are three million dollars (\$3,000,000) or less, the tax shall be zero;
 2. If the corporation's gross profits from all sources are at least three million dollars (\$3,000,000) but less than six million dollars (\$6,000,000), the tax shall be seventy-five cents (\$0.75) per one hundred dollars (\$100) of the corporation's Kentucky gross profits, reduced by an amount equal to twenty-two thousand five hundred dollars (\$22,500) multiplied by a fraction, the numerator of which is six million dollars (\$6,000,000) less the amount of the corporation's Kentucky gross profits, and the denominator of which is three million dollars (\$3,000,000), but in no case shall the result be less than zero;
 3. If the corporation's gross profits from all sources are equal to or greater than six million dollars (\$6,000,000), the tax shall be seventy-five cents (\$0.75) per one hundred dollars (\$100) on all of the corporation's Kentucky gross profits.

In determining eligibility for the reductions contained in this paragraph when the alternative minimum calculation is computed on a consolidated return, the gross profits of the affiliated group shall include the total gross profits from all sources of the affiliated group, including eliminating entries for transactions among the group.

(13) As used in subsections (11) and (12) of this section:

- (a) "Kentucky gross receipts" means an amount equal to the computation of the numerator of the sales factor under the provisions of KRS 141.120(8)(c);
- (b) "Gross receipts from all sources" means an amount equal to the computation of the denominator of the sales factor under the provisions of KRS 141.120(8)(c); and
- (c) The terms defined in KRS 141.0401(1)(d) to (l) shall have the same meaning as provided in KRS 141.0401.

(14) (a) For taxable years beginning on or after January 1, 2007, an S corporation shall pay income tax on the same items of income and in the same manner as required for federal purposes, except to the extent required by differences

between this chapter and the federal income tax law and regulations.

- (b) 1. If the S corporation is required under Section 1363(d) of the Internal Revenue Code to submit installments of tax on the recapture of LIFO benefits, installments to pay the Kentucky tax due shall be paid on or before the due date of the S corporation's return, as extended, if applicable.
- 2. Notwithstanding KRS 141.170(3), no interest shall be assessed on the installment payment for the period of extension.
- (c) If the S corporation is required under Section 1374 or 1375 of the Internal Revenue Code to pay tax on built-in gains or on passive investment income, the amount of tax imposed by this subsection shall be computed by applying the highest rate of tax for the taxable year.

Effective: July 12, 2006

History: Amended 2006 (1st Extra. Sess.) Ky. Acts ch. 2, sec. 3, effective June 28, 2006. -- Amended 2006 Ky. Acts ch. 251, secs. 46 and 47, effective April 25, 2006; and ch. 252, Pt. XIII, sec. 1, effective April 25, 2006. -- Amended 2005 Ky. Acts ch. 168, sec. 7, effective March 18, 2005. -- Amended 1996 Ky. Acts ch. 254, sec. 32, effective July 15, 1996. -- Amended 1990 Ky. Acts ch. 262, sec. 6, effective July 13, 1990; and ch. 476, Pt. VII C, sec. 629, effective April 11, 1990. -- Amended 1988 Ky. Acts ch. 111, sec. 1, effective July 15, 1988; and ch. 332, sec. 1, effective July 15, 1988. -- Amended 1986 Ky. Acts ch. 459, sec. 4, effective July 15, 1986. -- Amended 1985 (1st Extra. Sess.) Ky. Acts ch. 6, Pt. III, sec. 18, effective July 29, 1985. -- Amended 1980 Ky. Acts ch. 176, sec. 3, effective July 15, 1980. -- Amended 1976 Ky. Acts ch. 155, sec. 8. -- Amended 1972 Ky. Acts ch. 62, Part III, sec. 2; and ch. 121, sec. 4. -- Amended 1970 Ky. Acts ch. 14, sec. 5. -- Amended 1966 Ky. Acts ch. 176, Part 1, sec. 4; and ch. 255, sec. 137. -- Amended 1956 (4th Extra. Sess.) Ky. Acts ch. 4, sec. 4. -- Amended 1954 Ky. Acts ch. 79, sec. 5. -- Amended 1952 Ky. Acts ch. 124, sec. 2. -- Amended 1948 Ky. Acts ch. 93, sec. 3. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 4281b-14, 4281b-14a.

Legislative Research Commission Note (7/12/2006). This section was amended by 2006 Ky. Acts chs. 251 and 252, which do not appear to be in conflict and have been codified together.

Legislative Research Commission Note (7/12/2006). 2006 Ky. Acts ch. 247 instructs the Reviser of Statutes to adjust KRS references throughout the statutes to conform with the 2006 renumbering of the Financial Services Code, KRS Chapter 286. Such an adjustment has been made in this statute.

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."

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.

Legislative Research Commission Note (3/18/2005). 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.