141.420 Taxable income of individuals from pass through entities -- Allowable credits from pass through entities -- Determining basis in ownership interest.

For taxable years beginning after December 31, 2004, and before January 1, 2007:

(1) (a) Every corporation identified in KRS 141.010(24)(b)2. to 8. that is doing business in this state shall, on or before the fifteenth day of the fourth month following the close of its annual accounting period, file a copy of its applicable federal return with the form prescribed and furnished by the department.

(b) For a corporation filing a return under paragraph (a) of this subsection, the individual partner's, member's, or shareholder's distributive share of net income, gain, loss, or deduction shall be computed as nearly as practicable in a manner identical to that required for federal income tax purposes except to the extent required by differences between this chapter and the federal income tax law and regulations.

(2) (a) Resident individuals who are members, partners, or shareholders of a corporation required to file a return under subsection (1)(a) of this section shall report and pay tax on the distributive share of net income, gain, loss, or deduction as determined in subsection (1)(b) of this section.

(b) Nonresident individuals who are members, partners, or shareholders of a corporation required to file a return under subsection (1)(a) of this section shall report and pay tax on the distributive share of net income, gain, loss, or deduction as determined in subsection (1)(b) of this section multiplied by the apportionment fraction in KRS 141.120(8).

(3) (a) Resident and nonresident individuals who are members, shareholders, or partners of a corporation required to file a return under paragraph (a) of subsection (1) of this section shall be entitled to a nonrefundable credit against the tax imposed under KRS 141.020.

(b) The credit determined under this subsection shall be the member's, shareholder's, or partner's proportionate share of the tax due from the corporation as determined under KRS 141.040, before the application of any credits identified in KRS 141.0205(5) and reduced by the required minimum imposed by KRS 141.040(7).

(c) Notwithstanding the provisions of paragraph (a) of this subsection, for taxable years beginning after December 31, 2004, and before January 1, 2007, the portion of the credit computed under paragraph (b) of this subsection that exceeds the credit that would have been utilized if the corporation's income were taxed at the rates in KRS 141.020 shall be refundable. The refundable portion of the credit shall be the individual member's, shareholder's, or partner's proportionate share of the amount computed by multiplying the amount the corporation's income exceeds two hundred sixteen thousand six hundred dollars ($216,600) by one percent (1%).

(d) The credit determined under paragraphs (a) and (b) of this subsection shall not operate to reduce the member's, shareholder's, or partner's tax due to an

amount that is less than what would have been payable were the income attributable to doing business in this state by the corporation ignored.

(e) If a corporation identified in KRS 141.010(24)(b)1. to 8. is a partner, shareholder, or member of another corporation identified in KRS 141.010(24)(b)2. to 8., the amount of income, gain, loss, deduction, refundable credit, or nonrefundable credit that the entity receives from the entity in which it is a partner, shareholder, or member shall proportionately pass through to the corporation's individual partners, members, or shareholders based upon the distributive share ratio. The phrase "a corporation identified in KRS 141.010(24)(b)1. to 8. is a partner, shareholder, or member of another corporation identified in KRS 141.010(24)(b)2. to 8." shall extend through each level of multitiered ownership.

(f) The nonrefundable and refundable credits provided by this section shall be allowed only to the extent that the tax is paid by the corporation. If after the credits are disallowed the corporation subsequently pays the tax due, the nonrefundable and refundable credits shall then be allowed.

(4) For purposes of computing the basis of an ownership interest or stock in a corporation identified in KRS 141.010(24)(b)2. to 8., the basis attributable to a member, partner, or shareholder shall be adjusted by the distributive share of the items of net income, gain, loss and deduction as though the items had been passed through to the member, partner, or shareholder.

(5) Except as otherwise provided in this chapter, distributions by or from a corporation shall be treated in the same manner as they are treated for federal tax purposes.

Effective: June 28, 2006

History: Amended 2006 (1st Extra. Sess.) Ky. Acts ch. 2, sec. 11, effective June 28, 2006. -- Amended 2006 Ky. Acts ch. 252, Pt. XIII, sec. 14, effective April 25, 2006; and ch. 6, sec. 17, effective March 6, 2006. -- Created 2005 Ky. Acts ch. 168, sec. 18, effective March 18, 2005.

Legislative Research Commission Note (7/12/2006). This section was amended by 2006 Ky. Acts chs. 6 and 252, which do not appear to be in conflict and have been codified together.

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 (3/6/2006). 2006 Ky. Acts ch. 6, sec. 31, provides that this section is effective for taxable years beginning on or after January 1, 2006.

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.

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.