

#### **154.24-140 Adjustment of inducements.**

- (1) If an eligible company operates an existing service and technology business in Kentucky, and wishes to expand that business within the Commonwealth, the eligible company may submit an application to the authority to become an approved company and eligible for the inducements offered in KRS 154.24-010 to 154.24-150.
- (2) If an existing business becomes an approved company, the authority shall determine a base level of employment, a base level of state income tax liability, a base level of limited liability entity tax liability, and a base level of services of the approved company for determining eligible credits in remaining years of the approved company's project period. The base level shall be determined by taking into consideration any seasonal fluctuations or aberrations of employment levels over a preceding three (3) year period. Notwithstanding the determination of a base level of employment, no employee of the existing business who is an employee of such business prior to the date of the preliminary resolution of the authority as prescribed in KRS 154.24-100 shall be subject to assessment.
- (3) The authority shall identify, by name, all of the existing employees engaged in the service and technology activity, and these employees shall be exempt from the assessment. If any of these employees cease working in the activity, another employee shall be added to the base level of employment, based on the earliest date of entry into the workforce, and he shall be exempt from the assessment. The authority may negotiate with the approved company a different method of determining the base level of employment which would yield a more equitable result for the approved company, the Commonwealth, local jurisdictions, and the employees.
- (4) To become eligible for inducements, the approved company shall create and maintain above the base level of employment an increase at the site of the economic development project of at least fifteen (15) full-time employees who are residents of the Commonwealth, subject to the Kentucky income tax.
- (5) The approved company shall continue to pay to the Commonwealth, on an annualized basis during the term of the agreement, the base level of income tax, and limited liability entity tax adjusted on an annual basis to reflect changes in the consumers price index. Any excess income tax or limited liability entity tax owed may be taken as a credit.
- (6) If any approved company expands because of an increase in business or because of the commencement of a new line of business, it shall be eligible, at the discretion of the authority, to negotiate a separate and additional agreement to cover the expanded business under the same conditions as authorized for expansion in this section.

**Effective:** June 28, 2006

**History:** Amended 2006 (1st Extra. Sess.) Ky. Acts ch. 2, sec. 55, effective June 28, 2006. -- Amended 2002 Ky. Acts ch. 338, sec. 36, effective July 15, 2002. -- Amended 1996 Ky. Acts ch. 194, sec. 41, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 450, sec. 19, effective July 15, 1994. â€œ Created 1992 Ky. Acts ch.

358, sec. 14, effective July 14, 1992.

**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."