

**141.389 Nonrefundable and nontransferable distilled spirits ad valorem tax credit -
- Credit to be used only for capital improvement at licensed distiller's premises
-- Administrative regulations -- Annual report.**

- (1) (a) There shall be allowed a nonrefundable and nontransferable credit to each taxpayer paying the distilled spirits ad valorem tax as follows:
 1. For taxable years beginning on or after January 1, 2015, and before December 31, 2015, the credit shall be equal to twenty percent (20%) of the tax assessed under KRS 132.160 and paid under KRS 132.180 on a timely basis;
 2. For taxable years beginning on or after January 1, 2016, and before December 31, 2016, the credit shall be equal to forty percent (40%) of the tax assessed under KRS 132.160 and paid under KRS 132.180 on a timely basis;
 3. For taxable years beginning on or after January 1, 2017, and before December 31, 2017, the credit shall be equal to sixty percent (60%) of the tax assessed under KRS 132.160 and paid under KRS 132.180 on a timely basis;
 4. For taxable years beginning on or after January 1, 2018, and before December 31, 2018, the credit shall be equal to eighty percent (80%) of the tax assessed under KRS 132.160 and paid under KRS 132.180 on a timely basis; and
 5. For taxable years beginning on or after January 1, 2019, the credit shall be equal to one hundred percent (100%) of the tax assessed under KRS 132.160 and paid under KRS 132.180 on a timely basis.
- (b) The credit shall be applied both to the income tax imposed under KRS 141.020 or 141.040 and to the limited liability entity tax imposed under KRS 141.0401, with the ordering of the credits as provided in KRS 141.0205.
- (2) The amount of distilled spirits credit allowed under subsection (1) of this section shall be used only for capital improvements at the premises of the distiller licensed pursuant to KRS Chapter 243. As used in this subsection, "capital improvement" means any costs associated with:
 - (a) Construction, replacement, or remodeling of warehouses or facilities;
 - (b) Purchases of barrels and pallets used for the storage and aging of distilled spirits in maturing warehouses;
 - (c) Acquisition, construction, or installation of equipment for the use in the manufacture, bottling, or shipment of distilled spirits;
 - (d) Addition or replacement of access roads or parking facilities; and
 - (e) Construction, replacement, or remodeling of facilities to market or promote tourism, including but not limited to a visitor's center.
- (3) The distilled spirits credit allowed under subsection (1) of this section:
 - (a) May be accumulated for multiple taxable years;
 - (b) Shall be claimed on the return of the taxpayer filed for the taxable year during

which the credits were used pursuant to subsection (2) of this section; and

- (c) Shall not include:
 - 1. Any delinquent tax paid to the Commonwealth; or
 - 2. Any interest, fees, or penalty paid to the Commonwealth.
- (4) (a) Before the distilled spirits credit shall be allowed on any return, the capital improvements required by subsection (2) of this section shall be completed and specifically associated with the credit allowed on the return.
- (b) The amount of distilled spirits credit allowed shall be recaptured if the capital improvement associated with the credit is sold or otherwise disposed of prior to the exhaustion of the useful life of the asset for Kentucky depreciation purposes.
- (c) If the allowed credit is associated with multiple capital improvements, and not all capital improvements are sold or otherwise disposed of, the distilled spirits credit shall be prorated based on the cost of the capital improvement sold over the total cost of all improvements associated with the credit.
- (5) If the taxpayer is a pass-through entity, the taxpayer may apply the credit against the limited liability entity tax imposed by KRS 141.0401, and shall pass the credit through to its members, partners, or shareholders in the same proportion as the distributive share of income or loss is passed through.
- (6) The department may promulgate an administrative regulation pursuant to KRS Chapter 13A to implement the allowable credit under this section, require the filing of forms designed by the department, and require specific information for the evaluation of the credit taken by any taxpayer.
- (7) No later than September 1, 2016, and annually thereafter, the department shall report to the Interim Joint Committee on Appropriations and Revenue:
 - (a) The name of each taxpayer taking the credit permitted by subsection (1) of this section;
 - (b) The amount of credit taken by that taxpayer; and
 - (c) The type of capital improvement made for which the credit is claimed.

Effective: April 27, 2018

History: Amended 2018 Ky. Acts ch. 171, sec. 103, effective April 14, 2018; and ch. 207, sec. 103, effective April 27, 2018. -- Created 2014 Ky. Acts ch. 102, sec. 16, effective July 15, 2014.

Legislative Research Commission Note (4/27/2018). This statute was amended by 2018 Ky. Acts chs. 171 and 207, which do not appear to be in conflict and have been codified together.