



1 FINANCE AND ADMINISTRATION CABINET

2 Department of Revenue

3 (Amendment)

4 103 KAR 18:180. Kentucky economic development acts wage assessment.~~[Industrial~~
5 ~~Revitalization Act job-revitalization-assessment fees.]~~

6 RELATES TO: KRS 141.347, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.22-
7 010, 154.22-070, 154.23-010, 154.23-055, 154.24-010, 154.24-110, 154.25-010, 154.25-040,
8 154.26-010, 154.26-100, 154.28-010, 154.28-110, 154.32-010, 154.32-090~~[141.403, 154.26-010,~~
9 ~~154.26-100]~~

10 STATUTORY AUTHORITY: KRS 131.130(1), 141.347(9), 141.400(9), 141.401(9),
11 141.402(8), 141.403(9), 141.407(9), 141.415(9)~~[141.403(9)]~~

12 NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the
13 Department of Revenue to promulgate administrative regulations to administer and enforce
14 Kentucky's tax laws. KRS 141.347(9), 141.400(9), 141.401(9), 141.402(8), 141.403(9),
15 141.407(9), and 141.415(9) authorize ~~[141.403(9) authorizes]~~ the department to promulgate
16 administrative regulations to require the filing of forms necessary to comply with the Kentucky
17 economic development acts contained in KRS 154.22, 154.23, 154.24, 154.25, 154.26, 154.28,
18 and 154.32, ~~[154.26-010 to 154.26-100, the Kentucky Industrial Revitalization Act,]~~ and the
19 allowable income tax credit that a company may retain under those statutes. This administrative
20 regulation establishes the filing requirements for the wage assessments~~[assessment]~~ authorized by
21 the subchapters of KRS 154 referenced above.~~[KRS 154.26-100.]~~

1 Section 1. Definitions. (1) "Annual Report" means Form 42A900, Wage Assessment Annual
2 Report for Economic Development Credits, as prescribed by the department at
3 https://revenue.ky.gov.[Number 42A814, which is incorporated by reference in 103 KAR 1:050.]
4 (2) ~~["Approved company" is defined in KRS 154.26-010(4).~~
5 (3) ~~"Assessment" is defined in KRS 154.26-010(6).~~
6 (4) ~~"Authority" is defined in KRS 154.26-010(7).~~
7 ~~—(5) "Department" means the Kentucky Department of Revenue.~~
8 ~~[(6) "Economic development project" or "project" is defined in KRS 154.26-010(9).]~~
9 (3) "Gross wages" means any payment an employer gives an employee for services performed
10 before any deductions permitted by federal or Kentucky law to yield "Taxable wages."
11 (4) "KBI" means the Kentucky Business Investment Program Act, which is codified as KRS
12 154.32-010 to 154.32-100 and referenced in KRS 141.415.
13 (5) "KEOZ" means the Kentucky Economic Opportunity Zone Act, which is codified as KRS
14 154.23-005 to 154.23-080 and referenced in KRS 141.401.
15 (6) "KIDA" means the Kentucky Industrial Development Act, which is codified as KRS
16 154.28-010 to 154.28-140 and referenced in KRS 141.400.
17 (7) "KIRA" means the Kentucky Industrial Revitalization Act, which is codified as KRS
18 154.26-010 to 154.26-125 and referenced in KRS 141.403.
19 (8) "KJDA" means the Kentucky Jobs Development Act, which is codified as KRS 154.24-
20 010 to 154.24-160 and referenced in KRS 141.407.
21 (9) "KJRA" means the Kentucky Jobs Retention Act, which is codified as KRS 154.25-010 to
22 154.25-050 and referenced in KRS 141.402.
23 (10) "KREDA" means the Kentucky Rural Economic Development Act, which is codified as

1 KRS 154.22-010 to 154.22-102 and referenced in KRS 141.347.

2 (11) "Taxable wages" means any payment an employer gives an employee for services
3 performed as reported in box 1 of Internal Revenue Service Form W-2, Wage and Tax Statement.

4 ~~___[(7) "Gross wages subject to income tax" mean any payment an employer gives an employee~~
5 ~~for services performed as reported in box 1 of Internal Revenue Service Form W-2, Wage and Tax~~
6 ~~Statement.~~

7 ~~—(8) "KIRA" means the Kentucky Industrial Revitalization Act, which is codified as KRS~~
8 ~~154.26-010 to 154.26-100.]~~

9 Section 2. Annual Report for Assessment. (1) An approved company with a Kentucky
10 economic development act project authorized under the statutes listed in Section 1 of this
11 administrative regulation [KIRA project] shall file an annual wage assessment report with the
12 department.

13 (2) The [An-]annual report [for the KIRA assessment]shall be faxed or mailed [to the
14 department-]on or before March 15 of each calendar year to the department, to report wage
15 assessment credits[assessments] claimed for the preceding calendar year.

16 (3) Information required on the annual report shall include:

17 (a) Company[Business] name;

18 (b) Project[KIRA-] number assigned by the Cabinet for Economic Development;

19 (c) Kentucky withholding account number;

20 (d) Activation date of project;

21 (e) Total annual gross or taxable wages for all employees as described below:

22 1. Gross wages shall be used for the KEOZ, KIDA, KIRA, KJRA and KREDA credits; and

23 2. Taxable wages shall be used for the KBI and KJDA credits; [gross wages subject to income

- 1 ~~tax for all KIRA employees;~~
- 2 (f) Total annual wage assessment credit claimed;~~[Kentucky KIRA assessments claimed;]~~
- 3 (g) Total annual local wage assessment credit claimed; and ~~[KIRA wage assessments claimed;~~
- 4 ~~and]~~
- 5 (h) Total annual Kentucky tax withheld and reported for all employees.
- 6 (4) Information required to be submitted as an attachment to the annual report in a spreadsheet
- 7 format if not included on Form 42A900 shall include:
- 8 (a) Each eligible employee's name;
- 9 (b) Each eligible employee's Social Security number or requested part thereof;
- 10 (c) Each eligible employee's state of residence;
- 11 (d) Each eligible employee's hire date;
- 12 e) Annual gross or taxable wages per eligible employee as described below:
- 13 1. Gross wages shall be used for the KEOZ, KIDA, KIRA, KJRA and KREDA credits; and
- 14 2. Taxable wages shall be used for the KBI and KJDA credits;
- 15 ~~[Annual gross wages subject to income tax per eligible employee;]~~
- 16 (e) Annual Kentucky income tax withheld per eligible employee; and
- 17 (f) Annual Kentucky wage assessment credit ~~[KIRA wage assessment]~~ claimed per eligible
- 18 employee.

103 KAR 18:180

APPROVED:

Daniel Bork
DANIEL BORK, COMMISSIONER
Department of Revenue
Finance and Administration Cabinet

August 14, 2018
DATE APPROVED BY AGENCY

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on September 25, 2018 at 10:00 a.m. in Room 8A, State Office Building, Frankfort KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through September 30, 2018. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Lisa Swiger, Tax Policy Research Consultant II, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky, 40601, (502) 564-9526 (telephone), (502) 564-3875(fax), Lisa.Swiger@ky.gov(email).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation Number: 103 KAR 18:180

Contact Person: Lisa Swiger
Phone Number: (502)564-9526
Email: Lisa.Swiger@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: Amends 103 KAR 18:180 to consolidate the reporting requirements for Kentucky economic development credits authorized under various subchapters of KRS 154 that are now reported on Form 42A900 to the Department of Revenue.

(b) The necessity of this administrative regulation: This regulation is necessary to provide taxpayers with the most recent and up to date information on filing an annual report of wage assessment with the department. Previously, annual reports for wage assessment credits were reported on multiple forms until they were consolidated into one form for all credits in October of 2017. Updating this regulation will provide businesses with the correct information and form number required to file an annual report.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The authorizing statutes require that the department provide guidance to the public for annual reporting of wage assessments claimed for certain economic development credits. This regulation provides the required information.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will streamline the reporting process, reduce confusion for businesses and staff, and ensure reporting to the department on the correct form.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment to this regulation streamlines the filing process to one form, and removes the need for multiple regulations to provide guidance on the annual reporting of wage assessment credits for certain economic development credits authorized under KRS 154 as listed herein.

(b) The necessity of the amendment to this administrative regulation: See (1)(b).

(c) How the amendment conforms to the content of the authorizing statutes: See (1)(c).

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d).

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Any company with an approved economic development project that must file an annual wage assessment report with the department.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: These entities will benefit from the updated information provided and from having it availing in one location instead of many.

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Nothing other than using the updated form 42A900.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no additional costs associated with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): By following the appropriate steps and using the correct form to file their annual report, the

entities will have a faster and easier process for complying with the department.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There will be no additional expenses outside the current department budget to implement this administrative regulation.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current budgetary funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased by this regulation.

(9) TIERING: Is tiering applied? Tiering is not applied since all companies required to file an annual report under this regulation will follow the same requirements and be treated equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 103 KAR 18:180

Contact Person: Lisa Swiger
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Email: Lisa.Swiger@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Only the Finance and Administration Cabinet, Department of Revenue will be impacted.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 131.130(1)

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There will be no effect on expenditures and revenues for the department or any other government agency. The new form listed in this amendment has been in use since October of 2017, so any initial savings as a result of a streamlined reporting process has already been realized.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No new revenue will be generated for any agency in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

None.

(c) How much will it cost to administer this program for the first year? None.

(d) How much will it cost to administer this program for subsequent years? None.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: