

Bank Franchise Tax

Background KRS 136.500 through 136.575 was enacted during the 1996 Session of the Kentucky General Assembly and was titled the Bank Franchise and Local Deposit Tax Act. Within the same act, the General Assembly repealed KRS 136.270, commonly called the bank shares tax. The new statutory scheme for the bank franchise tax became effective July 15, 1996.

In the early part of 1996, the statutory structure of KRS 136.270 was being challenged in the courts and receipts were rapidly diminishing because of the litigation. The ongoing court proceedings were a result of discontent within the banking community with the method by which the Department of Revenue arrived at fair market values. Sometimes, banks were surprised by large and unexpected property tax assessments. Bank officials felt that there had to be a better way to calculate the liability, one that was more stable and did not fluctuate with economic trends. The new tax was enacted and implemented as a partnership between the Department of Revenue, the Kentucky Bankers Association, and the banking community. With the enactment, the court cases were settled, receipts were stabilized, and the banking community welcomed a reliable and steady tax environment.

**Current
Rate
Structure**

The bank franchise tax is assessed at the rate of 1.1 percent of net capital averaged over five years with a minimum of \$300 per year.

Tax Base

Every financial institution regularly engaged in business in Kentucky is required to pay an annual state franchise tax measured by its net capital as apportioned, if applicable. A financial institution is presumed to be regularly engaging in business in Kentucky if during any taxable year it obtains or solicits business with 20 or more persons within Kentucky, or if receipts attributable to sources in Kentucky equal or exceed \$100,000.

The bank franchise tax is in lieu of all city, county and local taxes, except the real estate transfer tax levied in KRS Chapter 142, real property and tangible personal property taxes levied in KRS Chapter 132, the local franchise tax levied in KRS 136.575, and taxes upon users of utility services. Every financial institution regularly

engaged in business in Kentucky is subject to all state taxes except the corporation income tax and the limited liability entity tax levied in KRS Chapter 141.

Tax Due

Returns and payment of the tax are due on the fifteenth day of March reflecting the tax computation for the preceding calendar year. An automatic extension of up to ninety days for the filing of returns will be granted upon receipt of a written request.

Table 2. Total Bank Franchise Tax Expenditures

FY 2008	FY 2009	FY 2010
\$0	\$0	\$0

Tax Expenditures

1. Kentucky Historic Preservation Credit

Kentucky Revised Statute 171.397, effective for tax periods ending on or after 12/31/2005

The 2005 Kentucky General Assembly created the Kentucky Historic Preservation Credit. The credit applies to individual income tax, corporation income tax, limited liability entity tax, or the bank franchise tax. The credit may be an amount equal to 30 percent of the qualified rehabilitation expenses, in the case of owner-occupied residential property, and 20 percent of the qualified rehabilitation expenses, in the case of all other property. The maximum credit which may be claimed with regard to owner-occupied residential property is \$60,000. The total amount of credit approved for a calendar year for all taxpayers is limited to the certified rehabilitation credit cap of \$3 million.

FY 2008	FY 2009	FY 2010
\$0	\$0	\$0

2. Kentucky Investment Fund Credit

Kentucky Revised Statute 154.20-255, effective July 15, 2002

The 2002 Kentucky General Assembly amended the Kentucky Investment Fund Act (KIFA) so that the KIFA tax credit may now be applied against the bank franchise tax. A financial institution that makes a cash contribution to an investment fund approved by the Kentucky Economic Development Finance Authority (KEDFA) is entitled to a nonrefundable credit equal to 40 percent of the investor's proportional ownership share of all qualified investment made by its investment fund and verified by the authority. To claim the credit, a copy of the notification from KEDFA reflecting the amount of credit granted and the year in which the credit may first be claimed must be attached to the return.

FY 2008	FY 2009	FY 2010
\$0	\$0	\$0
