

# Biodiesel Tax Credit

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The biodiesel tax credit is a **nonrefundable** credit that may be applied against income taxes imposed by KRS 141.020 (individual income tax) or KRS 141.040 (corporation income tax) and the limited liability entity tax (LLET) imposed by KRS 141.0401 in an amount certified by DOR. This credit is for any taxpayer that produces and/or blends biodiesel pursuant to KRS 141.422 to 141.424, 141.425, and 103 KAR 15:140. The total amount of tax credit shall be an amount equal to one dollar (\$1) per gallon of produced or blended biodiesel, unless the total amount of approved credit for all taxpayers exceeds the annual cap of \$10,000,000.

For calendar years beginning on or after January 1, 2021, the ten million dollar (\$10,000,000) annual tax credit cap is shared by all biodiesel producers, biodiesel blenders, renewable diesel producers, and renewable chemical producers in accordance with KRS 141.422(2).

## Application Process

The Schedule BIO, Application and Credit Certificate of Income Tax/LLET Credit Biodiesel, must be filed via fax or email to DOR no later than the fifteenth day of the first month following the close of the preceding calendar year.

**Credit certification cannot be guaranteed for schedules sent through regular mail.** Applications claiming Biodiesel and/or Blended biodiesel must include a copy of the laboratory results for July 1 and December 31 of each calendar year as proof of meeting the ASTM (American Society for Testing and Materials) standard. DOR will review all applications received, issue the credit certificate, and include the amount of credit available by April 15 following the close of the preceding calendar year. Each pass-through entity claiming the biodiesel tax credit must file a report with DOR by electronic mail at [DORTaxCredits@ky.gov](mailto:DORTaxCredits@ky.gov) (<mailto:DORTaxCredits@ky.gov>). The report must detail each partner, member, or shareholder's name, address, phone number, identification number, and distributive share of the tax credit.

## Forms Required to Claim the Tax Credit

The approved **Schedule BIO** is sent to the taxpayer with Part II and Part III, Biodiesel Approved Credit Certificate, filled out for their records. A copy is attached to the tax return the credit is claimed on. Taxpayers that receive a share of the biodiesel credit via a Kentucky K-1 through their ownership in a pass-through entity must complete and file **Schedule TCS** for corporations and pass-through entities or **Schedule ITC** for individuals. These schedules should be completed to reflect the taxpayer's share of the credit. The Schedule TCS or Schedule ITC is required to be attached to any return on which the credit is claimed. A copy of the credit certificate issued by DOR must be attached to the tax return. Each pass-through entity claiming the biodiesel tax credit must file a report with DOR by electronic mail (email) at [DORTaxCredits@ky.gov](mailto:DORTaxCredits@ky.gov) (<mailto:DORTaxCredits@ky.gov>). The report must detail each partner, member, or shareholder's name, address, phone number, identification number, and distributive share of the tax credit. Links to these forms may be found on the right-hand side of this page.

# Who Can Claim the Credit?

## Pass-through Entities

A pass-through entity (partnership, S-Corporation, LLC, general partnership, trust, etc.) may apply the biodiesel credit against the LLET on its Kentucky Income and LLET Return and pass the credit through to its members, partners, or shareholders in the same proportion as the distributive share of income is passed through with the ordering of the credits under KRS 141.0205.

The credit is passed through to the partners, members, or shareholders of a pass through entity that are the partners, members, or shareholders at the time of the application and subsequent approval of the credit. The income is reported on the Kentucky Schedule K-1 and any credit that is passed through to the members, partners, or shareholders may be used against individual income tax or corporate income tax and LLET.

## Individuals

A sole proprietor reporting business income on Schedule C (federal Form 1040) may claim the biodiesel credit under the business name. An individual may also claim the credit if it is passed through to them from a partnership, LLC, or S-Corporation on a Kentucky Schedule K-1.

If a taxpayer and spouse are entitled to claim the credit, the credit may be wholly claimed if they file jointly, but must be split if they file separately. If the application lists only one of the spouse's names, the listed spouse is entitled to claim the full credit.


## Corporations


A corporation may apply the biodiesel tax credit against income tax and LLET on its Kentucky Corporation Income Tax and LLET Return. A corporation may also claim the credit if it is passed through to them from a pass-through entity on a Kentucky Schedule K-1.

# Claiming the Biodiesel Tax Credit on your Tax Return

File the Schedule BIO with DOR's approved credit certificate. To claim the credit complete Part IV, Biodiesel Credit Used by Taxpayer, and enter the amount of credit claimed for the taxable year against the LLET or income tax on Schedule TCS or Schedule ITC according to the instructions on each schedule. The credit is claimed on the return filed for the first fiscal year ending after the close of the preceding calendar year in which the biodiesel was produced or blended. **No carryforward is allowed.**

## Business Tax Credits

 **Phone** (502) 564-8139 (tel:(502) 564-8139)

 **Fax** (502) 564-0058


 **Address**

Kentucky Department of Revenue

**Tax Credits Section**

501 High Street

Frankfort, KY 40602-0491

 **Email** Send us a message (<https://revenue.ky.gov/Get-Help/Pages/Contact-Us.aspx?subject=Business%20Tax%20Credits>)

Statutory Authority: KRS 141.422 - 141.425 (<https://apps.legislature.ky.gov/law/statutes/chapter.aspx?id=37674>)

Regulation: 103 KAR 15:140 (<https://apps.legislature.ky.gov/law/kar/103/015/140.pdf>)

## Applicable Forms:

**Schedule BIO** (</Get-Help/Pages/Forms.aspx>)

**Schedule ITC** (</Get-Help/Pages/Forms.aspx>) (Individual Filers)

**Schedule TCS** (</Get-Help/Pages/Forms.aspx>) (Corporate & Pass-through Filers)

Download the [Taxpayer Bill of Rights \(/Documents/10F100%20\(2023\).pdf\)](/Documents/10F100%20(2023).pdf).

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