

Guidelines:

Kentucky Selling Farmer Tax Credit (KSFTC) Program

October 2019

This fact sheet provides an overview of the Kentucky Selling Farmer Tax Credit (KSFTC) program. For the statutory program requirements, please see KRS 154.60-040. As with all Cabinet administered tax incentive programs, any inducements offered to an eligible company under the KSFTC program are negotiated by Cabinet for Economic Development officials and subject to approval by the Kentucky Economic Development Finance Authority (KEDFA).

The purpose of the Kentucky Selling Farmer Tax Credit program is to promote the continued use of Agricultural Land for Farming purposes by granting tax credits to Selling Farmers who agree to sell Agricultural Land and assets to Beginning Farmers.

Incentives

Selling Farmers wanting to sell Agricultural Land and assets may be eligible for a tax credit up to five percent (5%) of the purchase price of qualifying Agricultural Assets, subject to a \$25,000 calendar year cap and \$100,000 lifetime cap. To be eligible for the tax credit, a Selling Farmer must complete a Sale of Agricultural Assets with a Beginning Farmer. Tax credits awarded through this program may be claimed against the Kentucky individual income tax imposed by KRS 141.020, the corporation income tax imposed by KRS 141.040, and the limited liability entity tax imposed by KRS 141.0401. The tax credits are non-refundable, but unused credits may be carried forward up to five (5) years.

Key Program Definitions	
Beginning Farmer (Buying Farmer)	<ul style="list-style-type: none">• If not required to register with the Kentucky Secretary of State, owner must be a legal resident of Kentucky;• If a legal entity required to register with the Kentucky Secretary of State, must be registered and in good standing with the Kentucky Secretary of State;• Possesses all licenses, registrations and experience needed to legally operate a Farming operation on Agricultural Land purchased from a Selling Farmer;• No owners have previously held an ownership interest in Agricultural Land used for Farming for a period exceeding ten (10) years;• Prior to entering into a Sale of Agricultural Assets with a Selling Farmer, has no ownership interest in any of the Agricultural Assets included in the sale;• Will provide a majority of the management, and will materially participate in the operation of a for-profit Farming operation located in Kentucky and purchased from a Selling Farmer, with the intent to continue for-profit Farming operations on the purchased Agricultural Land for a minimum of five (5) years after the Sale of Agricultural Assets date;• If set up as a holding company and operating entity, owner must be the same;• No owners, or spouses of owners, are Immediate Family Members of any of the owners, partners, members, shareholders or trustees of the Selling Farmer from whom the Beginning Farmer is seeking to purchase Agricultural Assets.

Selling Farmer (Owner of Agricultural Assets)	<ul style="list-style-type: none"> • If not required to register with the Kentucky Secretary of State, owner must be a legal resident of Kentucky; • If a legal entity required to register with the Kentucky Secretary of State, must be registered and in good standing with the Kentucky Secretary of State; • Prior to a Sale of Agricultural Assets, is a small business with fifty (50) or fewer full-time employees, and is the sole legal owner of Agricultural Land and any other Agricultural Assets sold to a Beginning Farmer; • Does not include farm equipment dealers, livestock dealers, or similar entities primarily engaged in the business of selling Agricultural Assets for profit and not engaged in Farming as its primary business activity; • Does not include banks or similar lending/financial institutions; • No owners, or spouses of owners, are Immediate Family Members of any of the owners, partners, members, shareholders or trustees of the Beginning Farmer to whom the Selling Farmer is seeking to sell Agricultural Assets.
Immediate Family Member	<ul style="list-style-type: none"> • For this program, Immediate Family Member means any of the following in relation to the owner(s) and spouse of owner(s): • Parents and grandparents; • Children and their spouses; • Siblings and their spouses.
Agricultural Products	<ul style="list-style-type: none"> • Livestock, livestock products, poultry, poultry products, milk, milk products, aquaculture, field crops and other crops, including timber, if approved by KEDFA.
Horticultural Products	<ul style="list-style-type: none"> • Orchards, fruits, vegetables, nuts, flowers and ornamental plants.
Agricultural Land	<ul style="list-style-type: none"> • Land for Farming, zoned and permitted as required, located entirely in Kentucky, that meets at least one of the following two criteria: • A tract of land of at least ten (10) contiguous acres in area used for the commercial production of Agricultural Products; or • A tract of land of at least five (5) contiguous acres in area used for the commercial production of aquaculture or Horticultural Products.
Agricultural Assets	<ul style="list-style-type: none"> • Includes, at a minimum, Agricultural Land with a valid appraisal; • May include agricultural buildings, facilities, machinery, equipment, and Agricultural/Horticultural Products, if purchased in the same transaction with the intent to be used on the purchased Agricultural Land, and having the same Sale of Agricultural Assets date; • Excludes personal residence and other residential structures; • Excludes Agricultural Assets that have previously been included in an approved application for KSFTC tax credits.
Farming	<ul style="list-style-type: none"> • For this program, Farming is defined as the active use, management and operation of Agricultural Land and Agricultural Assets for the purpose of pursuing a profitable commercial business venture to produce Agricultural Products or Horticultural Products for sale. • Hobby farms, non-profit ventures, farms used primarily for storing Agricultural Products or Horticultural Products, and farms used to grow or raise Agricultural/Horticultural Products primarily for use by the Immediate Family Members or owner(s) of the Agricultural Land are not eligible.

Sale of Agricultural Assets	<ul style="list-style-type: none"> • The legal transfer of ownership of Agricultural Assets from a Selling Farmer to a Beginning Farmer on a single date after June 30, 2019; • Transfer of ownership must be executed and effectuated by a purchase contract and other documents such as a deed, title conveyance for the transfer of assets, certified appraisal, loan closing statement, and any other supporting documentation required by KEDFA to determine tax credit eligibility; • Includes only Agricultural Assets owned by the same Selling Farmer owning the Agricultural Land sold to the Beginning Farmer; • If seller financing is involved, the amount financed by the seller must be less than fifty (50)% of the total purchase price of Agricultural Assets; • Beginning Farmer must obtain at least partial financing from an accredited bank, depository lending institution, or authorized government lender (independent third-party financing is a required component of the sale).
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The Application Process	
Beginning Farmer (Buying Farmer)	<ul style="list-style-type: none"> • Prior to entering into a Sale of Agricultural Assets, review all Beginning Farmer and Sale of Agricultural Assets requirements to verify eligibility; • Must meet eligibility requirements as of the date of Sale of Agricultural Assets; • Submit a KSFTC Beginning Farmer application so that it is received by the Cabinet for Economic Development no later than twelve (12) months after the Sale of Agricultural Assets date (note: cannot submit a Beginning Farmer application until after the Sale of Agricultural Assets occurs).
Selling Farmer (Owner of Agricultural Assets)	<ul style="list-style-type: none"> • Prior to entering into a Sale of Agricultural Assets, review all KSFTC program requirements to verify eligibility of Beginning Farmer, Selling Farmer, Agricultural Assets, and Sale of Agricultural Assets; • Must meet eligibility requirements as of the date of Sale of Agricultural Assets; • Execute and effectuate a purchase contract for a Sale of Agricultural Assets; • Submit a KSFTC Selling Farmer application and supporting documentation so that it is received by the Cabinet for Economic Development no later than twelve (12) months after the Sale of Agricultural Assets to a Beginning Farmer, and pay the Selling Farmer application fee (note: cannot submit a Selling Farmer application until after the Sale of Agricultural Assets occurs); • Subject to caps, applications are processed on a first-come, first-served basis until the tax credit allocation is exhausted; • If KSFTC tax credits are available and the application meets all eligibility requirements, the Selling Farmer’s request for a tax credit will be presented at a KEDFA board meeting for approval; • If approved by KEDFA, the Selling Farmer will receive a tax credit confirmation letter and may begin claiming the non-refundable tax credit on the Kentucky tax return for the taxable year during which the credit was awarded; • Selling Farmers desiring to obtain a tax credit in the same year that the Sale of Agricultural Assets occurs should consider submitting as early as possible during the taxable year. The time required to process an application depends on the completeness of the application, including supporting documentation. Applications submitted late in the taxable year may not allow sufficient time for processing and KEDFA approval prior to year-end. Tax credit authorization is based on the date of KEDFA approval, not the application submission date.

Fees

An application fee of \$500 must be submitted with the Selling Farmer application. The fee is non-refundable unless the application cannot be processed due to a lack of available tax credits. There is no application fee for the Beginning Farmer application.

Credit Caps

The total combined allocation of tax credits available for both the Kentucky Selling Farmer Tax Credit program and the Kentucky Small Business Tax Credit program is three million dollars (\$3,000,000) per state fiscal year (July 1 – June 30). Both programs draw from the same tax credit pool. During the first six months of a fiscal year (July 1 – December 31), each program may award up to a maximum of one million, five hundred-thousand dollars (\$1,500,000) in tax credits.

If both programs award \$1.5 million in tax credits during the first six months of the fiscal year, the \$3 million program cap for the full fiscal year will have been met. No additional tax credits will be awarded until the next fiscal year begins.

If only one of the two programs reaches the \$1.5 million maximum in the first six months of the fiscal year, the program reaching the \$1.5 million limit will not be able to award any additional tax credits until the second half of the fiscal year. The program not reaching its \$1.5 million limit can continue awarding tax credits, up to \$1.5 million, through the end of the first six months of the fiscal year.

At the end of the first six months of the fiscal year, any remaining tax credits from both programs will be combined and made available during the last six months of the fiscal year (January 1 to June 30) to award through either program on a first-come, first-served basis until the \$3 million tax credit cap is reached. Any unused credits at the end of a fiscal year lapse and do not carry forward into the next fiscal year. A new \$3 million tax credit allocation to be shared between both programs becomes available at the beginning of each fiscal year.

Applications

Additional program information, including Beginning Farmer and Selling Farmer application forms, can be found online at <http://www.ced.ky.gov/KSEFTC>. Both applications, along with required supporting documentation and the Selling Farmer application fee, must be submitted to the Cabinet for Economic Development before a Sale of Agricultural Assets can be evaluated for tax credit eligibility.

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To learn more, contact:

Tim Back

Tim.Back@ky.gov

Phone: (502) 782-1967
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