

2009 Enterprise Zone Credit

CONTACTS FOR ENTERPRISE ZONE CREDIT

Department of Commerce

•Enterprise Zone locations •Certification forms •Enterprise Zone program guidelines

Internet home page: www.azcommerce.com

Enterprise Zone Administrator (602) 771-1100

Department of Revenue

•tax forms and instructions •information and assistance

Internet home page: www.azdor.gov

Taxpayer assistance (602) 255-3381

From area codes 520 and 928, toll-free (800) 352-4090

Hearing impaired TDD user

Phoenix (602) 542-4021

From area codes 520 and 928, toll-free (800) 397-0256

General Instructions

ARS §§ 43-1074 and 43-1161 provide nonrefundable individual and corporate income tax credits for net increases in qualified employment positions by a business located in an enterprise zone. This credit applies to taxable years beginning from and after December 31, 1995. Refer to Arizona Corporate Tax Ruling CTR 02-5 and Arizona Partnership Tax Ruling PTR 02-1 for further information regarding the enterprise zone tax credit provisions effective for taxable years beginning from and after December 31, 2001.

The enterprise zone credit for qualified employment positions is scheduled to expire July 1, 2011, unless the Arizona Legislature extends the enterprise zone program. A business must be located within an enterprise zone prior to July 1, 2011, in order to be eligible for the enterprise zone credit.

Note for Form 120 filers: Taxpayers filing on a combined or consolidated basis are considered to be a single taxpayer for the purposes of the enterprise zone credit.

If the documents filed with the Arizona Department of Commerce or the Arizona Department of Revenue contain materially false information, the taxpayer is ineligible for the enterprise zone tax credit and is subject to recovery of the amount of enterprise zone tax credits allowed in preceding taxable years based on the false information, plus penalties and interest.

The enterprise zone credit is in lieu of the following credits, with respect to the same employees:

- The military reuse zone credit, under ARS § 43-1079 or ARS § 43-1167;
- The defense contracting credit, under ARS § 43-1077 or ARS § 43-1165; and
- The credit for healthy forest enterprises, under ARS § 43-1076 or ARS § 43-1162.

Highlights of Enterprise Zone Credit for Qualified Employment Positions for Taxable Years Beginning From and After December 31, 2003

- Credit allowed for net increases in qualified employment positions by a business located in an enterprise zone unless more than 10 percent of the business conducted at the location consists of retail sales of tangible personal property, measured by EITHER the number of employees assigned to retail OR the square footage of the facility used for retail transactions at the location in the enterprise zone. Retail activity allowable at the zone location (that does not exceed 10 percent) is limited solely to the following activities:
 - (a) Food and beverage for consumption on the premises solely by employees and occasional guests of employees at the location.
 - (b) Promotional products displaying the company logo or trademark that are not available for sale.
 - (c) Products sold to company employees.
- The credit may be carried over for the next five subsequent taxable years.
- A business located in an enterprise zone that is terminated may claim its second and third year credits for qualified employment positions and any credit carryover if the business remains at the location that was formerly in an enterprise zone. The positions must continue to meet all of the requirements for qualified employment positions, and the business must continue to meet all of the qualifications for the credit.

The tax credit and any carryover is lost if the business relocates outside of the enterprise zone.

The enterprise zone credit for qualified employment positions is equal to:

- One-fourth of the taxable wages paid to an employee in a qualified employment position, not to exceed \$500 per qualified employment position, in the first year or partial year of employment.
- One-third of the taxable wages paid to an employee in a qualified employment position, not to exceed \$1,000 per qualified employment position, in the second year of continuous employment.
- One-half of the taxable wages paid to an employee in a qualified employment position, not to exceed \$1,500 per qualified employment position, in the third year of continuous employment.

Reporting requirements: Attach a copy of the letter received from the Department of Commerce stating that the taxpayer timely complied with the reporting requirements for that agency. A taxpayer must timely comply with the reporting requirements of both the Department of Revenue and the Department of Commerce in order to claim the credit. Do not use the 2009 Forms 304, 304-1 and 304-2 to claim the enterprise zone credit for prior taxable years.

Aggregate summary: This is a single Form 304 that combines the results of multiple business locations in an

enterprise zone or zones. Taxpayers having multiple business locations must first complete separate Forms 304, 304-1 and 304-2 for each business location, whether those locations are in the same enterprise zone or multiple enterprise zones. Then, complete the aggregate summary Form 304. Do not complete aggregate summaries of Forms 304-1 and 304-2.

Taxpayers do NOT need to complete the following portions of the aggregate summary Form 304:

- Part I - Business Information
- Part II - Net Increase in Average Number of Full-Time Employees
- Part III - Lines 8 through 11b (line 11c must still be completed)
- Part VI - Limited Liability Companies

Specific Instructions

Complete the name and taxpayer identification number section at the top of the form. Indicate the period covered by the taxable year. Attach the completed form and all supporting documentation to the tax return.

All returns, statements, and other documents filed with the department require a taxpayer identification number (TIN). The TIN for a corporation, S corporation, or a partnership is the taxpayer's employer identification number. The TIN for an individual is the taxpayer's social security number or an IRS individual taxpayer identification number. Taxpayers that fail to include their taxpayer identification number may be subject to a penalty.

Part I - Business Information

Lines 1 through 3 -

On lines 1, 2a, and 3, enter the name, address, and taxpayer identification number of the business location that is at a site located in an enterprise zone. Enter the name of the enterprise zone in which business is located on line 2b.

Line 4 - Retail Sales of Tangible Personal Property

Answer the question on line 4. If the answer to this question is yes, the business is not eligible for an enterprise zone credit for any of its qualified employment positions.

ASSIGNED TO RETAIL means working more than 25 percent of an employee's time in one or more retail activities.

RETAIL ACTIVITIES means all activities persons operating a retail business normally engage in, including taking, filling, and billing orders, receiving and processing payment and shipping, stocking and delivering tangible personal property to the ultimate consumer, except drop shipments by a company acting on behalf of an unrelated company that has made a sale to a final consumer.

ZONE LOCATION means a single parcel or contiguous parcels of owned or leased land, the structures and personal property contained on the land, or any part of the structures occupied by a taxpayer.

Part II - Net Increase in Average Number of Full Time Employees

Lines 5 and 6 -

To determine the net increase in the number of full time employees, compare the average number of full time

employees during the current taxable year with the average number of full time employees during the immediately preceding taxable year. The net increase in average number of full time employees calculation includes all permanent full time employees, whether or not they are in qualified employment positions. New full time employees are newly hired employees who were employed for at least ninety days during the taxable year, and who were not employed by the employer within the preceding 12 months. The position must be a minimum of 1,750 hours per year of regularly scheduled work hours, and not for a specified or limited period of time. Do not include overtime hours in the minimum requirement determination.

Use the worksheet below to calculate the numbers for lines 5 and 6. Columns 5 and 6 of the worksheet correspond to lines 5 and 6 of Part II of Form 304. Then, transfer the totals from line 15 of the worksheet to their corresponding lines on Form 304.

On lines 1 through 12 of the worksheet, enter the number of full time employees employed at the end of each month by the business located in the enterprise zone. Do not include any employment positions that were filled during the last ninety days of the tax year. Those employees are considered new employees during the next taxable year. A newly established business in an enterprise zone would not have any full time employees within the zone during the immediately preceding taxable year. Such a business would utilize only the line 5 column on the worksheet, and would enter zero on line 6 of Form 304.

Average Number of Full Time Employees Worksheet			
		Line 5 Column – Current Taxable Year	Line 6 Column – Immediately Preceding Taxable Year
1	January		
2	February		
3	March		
4	April		
5	May		
6	June		
7	July		
8	August		
9	September		
10	October		
11	November		
12	December		
13	Total – Add lines 1 through 12.		
14	Total number of months during the taxable year in which the employer was in business.		
15	Average – Divide the amount on line 13 by the amount on line 14.		

Line 7 - Net Increase in Average Number of Full Time Employees

Subtract the amount on line 6 from the amount on line 5. If this amount contains a decimal, round down to the next whole number. This is the net increase in the number of full time employees for the current taxable year.

If the amount shown on line 7 is zero, the business may not claim an enterprise zone credit for qualified employment positions created during the current taxable year. Do not complete the portion of Form 304-2 relating to first year credits. Enter zero on Part III, line 11c. Do not complete Part V, line 15 of Form 304.

Part III - Maximum Number of Qualified Employment Positions

Line 8 -

Enter the total number of qualified employment positions created during the taxable year. A newly created position is a qualified employment position on the date that it meets the following requirements. Positions that cease to meet these criteria are no longer qualified employment positions.

- All employees in qualified employment positions must be Arizona residents.
- Thirty-five percent of employees in qualified employment positions for which the first year credit is claimed must be residents of an enterprise zone within the county in which the business is located on the date of hire.
- The employees must perform their job duties primarily at the enterprise zone locations of the business.
- The qualified employment positions must be full time, permanent positions that require a minimum of 1,750 hours per year, not including overtime hours.
- The position must include health insurance coverage for the employee for which the employer pays at least 50 percent of the premium or membership cost. If the taxpayer is self-insured, the employer must pay at least 50 percent of a predetermined fixed cost per employee for an insurance program that is payable whether or not the employee has filed claims.
- The compensation paid for this position must at least equal the wage offer by county for the particular taxable year as computed annually by the Department of Economic Security Research Administration Division. To obtain this information, contact the Department of Commerce, or refer to its website at www.azcommerce.com.
- The business must have employed the employee for at least ninety days during the taxable year. If a qualified employment position is filled during the last ninety days of the taxable year, it is considered a new qualified employment position for the next taxable year.
- The business cannot have employed the employee within twelve months before the employee's current hire date.

Line 9 -

Enter the net increase in the number of full time employees from Part II, line 7.

Line 10 -

Enter the smaller of line 8 or line 9. This is the maximum number of new qualified employment positions for which the business may claim a credit before application of the 35 percent enterprise zone residency requirement.

Application of 35 Percent Enterprise Zone Residency Requirement for First-Year Employees

Line 11a -

As of their hire date, thirty-five percent of the new employees in qualified employment positions must live in an enterprise zone within the same county as the business location. Enter the number of employees that meet this requirement on line 11a.

Line 11b -

Divide the amount on line 11a by 35 percent (.35). Enter the quotient. If this amount contains a decimal, round down to the next whole number.

Line 11c -

Enter the smaller of line 10 or line 11b. Aggregate summary filers, refer to each location's Form 304, add up all of line 11c results for all business locations, and enter the result here.

Part IV - Limitation on Number of Qualified Employment Positions

Line 13 -

Compare the numbers entered on lines 11c and 12 and enter the lower of the two numbers on line 13. This is the total number of new employees in qualified employment positions for the current year. If the number on line 11c is greater than 200, identify the qualified employment positions for which the taxpayer is claiming the credit by checking the box in column (e) on the Form(s) 304-2 for the zone location. This number cannot exceed the number entered in Part V, line 15, column (a).

Complete Forms 304-1 and 304-2 before completing Part V of Form 304.

FORM 304-1

Complete a Form 304-1 for each employee at the zone location, WHETHER OR NOT THE EMPLOYEE IS IN A QUALIFIED EMPLOYMENT POSITION.

NOTE: ARS § 41-1525(B)(1) provides for the information requested in the Form 304-1 to be submitted in a form prescribed by the Department of Revenue and may include electronic media. The department will accept a hard copy spreadsheet that contains all the requested information or the information may be submitted on electronic media as a Microsoft Excel spreadsheet or pdf file on a CD-ROM or DVD. The chosen media must be Microsoft Windows compatible.

Regardless of the form, the information must be filed on or before the due date of the tax return including any extensions. Taxpayers submitting the information on CD-ROM or DVD should attach a statement to Form 304 in the tax return that the information is being separately submitted in that format.

The Forms 304-1 submitted on CD-ROM or DVD are part of the income tax return and are subject to the sworn statement on the return that they are true and correct to the best of the signer's knowledge and belief.

The CD-ROM or DVD should be labeled as Form 304-1 with the taxpayer's name, employer identification number, and taxable year and sent directly to:

Arizona Department of Revenue
Attn: Corporate Office Audit/EZ Credits
1600 West Monroe
Phoenix, AZ 85007

FORM 304-1, LINE 8 - List the employee's current date of hire.

FORM 304-1, LINES 9a AND 9b - Complete these lines if the employee was previously employed by the business (prior to the current employment).

FORM 304-1, LINE 10b - Enter the number of hours actually worked by the employee. Include paid time off for holidays, vacation, or sick. Do not include bonuses or over-time.

FORM 304-1, LINES 12a and 12b - On line 12a, enter the total amount of the insurance premium or membership cost provided for the employee. If the business is self-insured, list the total amount of a predetermined fixed cost for the employee for an insurance program that is payable whether or not the employee has filed claims. On line 12b, enter the total amount of the insurance premium or membership cost paid by the employer.

FORM 304-1, LINES 14a and 14b - Arizona's statutes do not require that the employee who is claimed in the second and third years of continuous employment be the same employee who was claimed in the first and second years of employment. Therefore, if one of the originally claimed new employees leaves employment, the business can claim the subsequent years' credits for another employee in a qualified employment position who is in the same year of continuous employment as the departed employee. If the original employee was counted as part of the 35 percent enterprise zone residency requirement, the substitute must have been a resident of an enterprise zone in the county in which the business is located *on the date of hire*. If the employee is being substituted for another employee, check the box on line 14a, and enter the date of substitution on line 14b.

FORM 304-2

List each employee in a qualified employment position. Do not list employees that are not in qualified positions.

FORM 304-2, COLUMN (e)

Check this box to indicate the qualified employment positions for which the taxpayer is claiming the credit.

FORM 304-2, LINE 8

The totals on line 8 must include only the qualified employment positions for which the taxpayer is claiming the credit. These employees would be listed on lines that have a checkmark in column (e).

FORM 304

Part V - Credit Calculation for Qualified Employment Positions

The taxpayer may claim the first, second, and third year credits for a qualified employment position only if the position continues to meet all of the requirements for a qualified employment position. The second year and third year credits are allowed only for qualified employment positions for which first year and second year credits were allowed and claimed by the taxpayer on the taxpayer's original tax returns for those taxable years.

Arizona's statutes do not require that the employee who is claimed in the second and third years of continuous employment be the same employee who was claimed in the first and second years of employment. Therefore, if one of the originally claimed new employees leaves employment, the business can claim the subsequent years' credits for another employee in a qualified employment position who is in the same year of continuous employment as the departed employee. If the original employee was counted as part of the 35 percent enterprise zone residency requirement, the substitute must have been a resident of an enterprise zone in the county in which the business is located *on the date of hire*.

Line 14 - Arizona Residency

Answer the question on line 14. If the answer to this question is no, the business is not eligible for an enterprise zone credit for any of its otherwise qualified employment positions (first, second and third year) filled by employees who are not Arizona residents. Refer to Arizona Individual Income Tax Procedure ITP 92-1 for information on determining Arizona residency.

Line 15 - Column (a)

Enter the number of new employees in qualified employment positions from Form 304-2, line 8, column (b)1. Include only employees whose wages are being used to compute the credit. This number can never exceed the number of qualified employment positions entered in Part IV, line 13.

Line 15 - Column (b)

Enter the total maximum allowable wages for first year employees in qualified employment positions from Form 304-2, line 8, column (d)1. Include only employees whose wages are being used to compute the credit.

Line 15 - Column (d)

Multiply the amount entered on line 15, column (b), by the percent shown on line 15, column (c). Enter the result on line 15, column (d). This is the allowable credit for new qualified employment positions.

Line 16 - Column (a)

Enter the total number of employees in qualified employment positions in the second year of continuous employment from Form 304-2, line 8, column (b)2. This number can never exceed the number of qualified first year employees for

which a credit was claimed in the immediately preceding tax year.

Line 16 - Column (b)

Enter the total maximum allowable wages for employees in qualified employment positions in the second year of continuous employment, from Form 304-2, line 8, column (d)2.

Line 16 - Column (d)

Multiply the amount shown on line 16, column (b), by the percent shown on line 16, column (c). Enter the result on line 16, column (d). This is the allowable credit for employees in qualified employment positions in their second year of continuous employment.

Line 17 - Column (a)

Enter the total number of employees in qualified employment positions in the third year of continuous employment from Form 304-2, line 8, column (b)3. This number can never exceed the number of qualified second year employees for which a credit was claimed in the immediately preceding tax year.

Line 17 - Column (b)

Enter the total maximum allowable wages for employees in qualified employment positions in the third year of continuous employment from Form 304-2, line 8, column (d)3.

Line 17 - Column (d)

Multiply the amount shown on line 17, column (b), by the percent shown on line 17, column (c). Enter the result on line 17, column (d). This is the allowable credit for employees in qualified employment positions in their third year of continuous employment.

Line 18 -

Add the numbers in column (a) on lines 15, 16, and 17. Enter the total in column (a) on line 18. The number shown on line 18, column (a), is the total number of employees in qualified employment positions for which the enterprise zone credit is being claimed.

Add the amounts in column (d) on lines 15, 16, and 17. Enter the total in column (d) on line 18. The amount shown on line 18, column (d) is the total allowable enterprise zone credit for qualified employment positions for the current taxable year.

Part VI - Limited Liability Companies

This portion of the Form 304 must be completed if the business is a limited liability company. See Arizona Corporate Tax Ruling CTR 97-1 or Arizona Partnership Tax Ruling PTR 97-1 for further information regarding Arizona's treatment of the federal "check-the-box rules". See Arizona Corporate Tax Ruling CTR 97-2 or Arizona Partnership Tax Ruling PTR 97-2 for further information regarding the Arizona tax treatment of a limited liability company.

Part VII - S Corporation Credit Election and Shareholder's Share of Credit

Line 20 -

An S corporation must make an irrevocable election to either claim the credit itself or pass the credit through to its shareholders. The election statement must be signed by one of the officers of the S corporation who is also a signatory to the Form 120S. If the S corporation elects to claim the credit itself, it can skip lines 21 through 23 and complete Parts IX and X.

Lines 21 through 23 -

If the S corporation elects to pass the credit through to its shareholders, it must complete lines 21 through 23 separately for each shareholder.

Each S corporation shareholder is entitled to only a pro rata share of pass-through credit based on ownership interest in the S corporation. The total of the credit allowed to all shareholders may not exceed the amount that would have been allowed for a sole owner.

The S corporation must furnish each shareholder with a copy of the completed Form 304. Each shareholder must complete Parts IX and X.

Part VIII - Partner's Share of Credit

Lines 24 through 26 -

Complete Part VIII, lines 24 through 26, separately for each partner.

Each partner is entitled to only a pro rata share of the credit based on the partner's ownership interest in the partnership. The total of the credit allowed to all partners may not exceed the amount that would have been allowed for a sole owner.

The partnership must furnish each partner with a copy of the completed Form 304. Each partner must complete Parts IX and X.

Taxpayers who are partners or shareholders in multiple entities operating in enterprise zones must complete a schedule detailing the amount of the credit passed through from each partnership or S corporation, and attach the schedule to their tax returns.

Part IX - Available Credit Carryover

The taxpayer who is utilizing the credit carryover should complete Part IX only if its allowable enterprise zone tax credit for qualified employment positions for prior taxable years exceeded its Arizona income tax liability for those taxable years.

PARTNERSHIPS AND S CORPORATIONS THAT ELECTED TO PASS THE CREDIT THROUGH TO THEIR SHAREHOLDERS: A partnership or an S corporation that passed the credit through to its partners or shareholders must furnish each partner or shareholder with a statement indicating that the business is still located in the enterprise zone or, if the enterprise zone

was terminated, is still at the location that was formerly in an enterprise zone.

Enter the taxable year(s) from which you are carrying over the credit on line 27 in columns (a) through (e). On line 28, enter the credit originally computed for that taxable year. On line 29, enter the amount of the credit from that taxable year already used. Subtract the amount on line 29 from the amount on line 28 and enter the result on line 30.

On line 31, enter the amount of the credit that is unallowable because the business is no longer located in the enterprise zone or is not at the location that formerly was in an enterprise zone. Subtract the amount entered on line 31 from line 30, and write the result on line 32.

Line 33 -

Add the results from columns (a) through (e) on line 32 and enter the result in column (f) on line 33. This is the total enterprise zone credit carryover available from prior taxable years.

Part X - Total Available Credit

Line 34 -

Individuals and corporations (including S corporations that elected to claim the credit) - enter the amount from Part V, line 18, column (d).

S corporation shareholders - enter the amount from Part VII, line 23.

Partners of a partnership - enter the amount from Part VIII, line 26.

This is the current year's credit for qualified employment positions.

Line 35 -

Enter the amount from Part IX, line 33, column (f). This is the total available credit carryover for qualified employment positions.

Line 36 -

Add lines 34 and 35. This is the total available enterprise zone credit for qualified employment positions that may be applied to the current year's tax liability.

Corporations and S corporations - enter the total here and on Form 300, Part I, line 2.

Individuals - enter the total here and on Form 301, Part I, line 2.