

2012 Credit for Renewable Energy Industry

CONTACTS FOR RENEWABLE ENERGY INDUSTRY TAX INCENTIVES PROGRAM

Arizona Commerce Authority

•Application forms •Program guidelines

Internet home page: www.azcommerce.com

Program Manager (602) 845-1200

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

Arizona Revised Statutes (ARS) §§ 43-1083.01 and 43-1164.01 provide refundable individual and corporate income tax credits for expanding or locating qualified renewable energy operations in this state. "Renewable energy operations" are limited to manufacturers of, and headquarters for, systems and components that are used or useful in manufacturing renewable energy equipment for the generation, storage, testing and research and development, transmission or distribution of electricity from renewable resources, including specialized crates necessary to package the renewable energy equipment manufactured at the facility. The credit is effective for taxable years beginning from and after December 31, 2009 through December 31, 2019.

The credit is up to 10 percent of the taxpayer's total capital investment in Arizona. The credit is apportioned and claimed in five equal annual installments in each of five consecutive taxable years.

The credit for renewable energy industry is in lieu of the following credits, with respect to the same employment positions:

- The enterprise zone credit, under former ARS § 43-1074 or former ARS § 43-1161 (claimed on Arizona Form 304);
- The credit for new employment, under ARS § 43-1074 or ARS § 43-1161 (claimed on Arizona Form 345); and
- The military reuse zone credit, under ARS § 43-1079 or ARS § 43-1167 (claimed on Arizona Form 306).

In order to claim the credit for renewable energy industry, a renewable energy business must apply for and receive pre-approval from the Arizona Commerce Authority (Commerce). Effective from and after June 30, 2012, Commerce cannot preapprove income tax credits for any one taxpayer in excess of \$30 million in any calendar year. For tax years beginning from and after December 31, 2012, the \$70 million overall limit for renewable energy industry credits will be shared with the new credit provided under ARS §§ 41-1512, 43-1083.03 and 43-1164.04.

Once pre-approval is received, the renewable energy business must incur at least \$250,000 in qualifying investment within 12 months of pre-approval.

The tax year of pre-approval determines the "allocation year." The allocation year is the calendar year to which the credit was applied to the annual credit cap.

The renewable energy business must enter into a managed review with Commerce prior to application for post-approval.

The renewable energy business must obtain post-approval from Commerce prior to claiming the credit. The first fifth of the apportioned credit is claimed on the tax return that includes the post-approval date.

For example, Company A, a renewable energy business, is a calendar year filer. Company A received pre-approval from Commerce for renewable energy operations on March 10, 2010, and received its post-approval on March 16, 2012. Because Company A completed everything necessary to earn the credit in calendar year 2012, the first fifth of the credit must be claimed on the tax return for calendar year 2012.

NOTE: *Each fifth of the credit for renewable energy industry must be claimed on a timely filed original income tax return, including extensions. The credit may not be claimed on an amended return. Failing to claim the apportioned credit on a timely filed return will result in loss of the apportioned credit for that taxable year.*

The amount of the credit for renewable energy industry a taxpayer may claim can never exceed the amount that is on the post-approval from Commerce.

NOTE: *The renewable energy business must submit a copy of the Certification of Qualification (Certification) from Commerce with Form 342 when claiming the credit.*

Co-owners of a business, including partners in a partnership and shareholders of an S corporation, may each claim only the pro rata share of the credit allowed based on the ownership interest. The total of the credits allowed all such owners may not exceed the amount that would have been allowed for a sole owner of the business.

Credit Recapture

During the pre-approval process with Commerce, the applicant must consent to adjustment or recapture of the income tax credit in the case of noncompliance with ARS § 41-1511.

If, within five taxable years after first receiving the credit for renewable energy industry, the Certification is rescinded by Commerce, the taxpayer is disqualified from the apportioned credits for subsequent taxable years and may be subject to recapture.

On a determination that the taxpayer has committed fraud or relocated outside of this state within five taxable years of first receiving a credit, all credits previously allowed are subject to recapture.

The recapture of the credit is computed by increasing the amount of taxes imposed in the year following the year of termination or revocation by the full amount of all credits previously allowed.

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 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, an 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 Internal Revenue Service individual taxpayer identification number. A taxpayer that fails to include its TIN may be subject to a penalty.

Part I - Listing of Post-Approved Renewable Energy Operations and Apportioned Credit Amount

Lines 1 through 4 -

In Part I, list renewable energy operations that Commerce has post-approved and that have apportioned credit amounts that are eligible to be claimed on this year's tax return. The first fifth of the credits for renewable energy industry is to be claimed on the tax return that includes the post-approval date and must be filed timely, including extensions.

Write the allocation year in column (a)1. The allocation year is the calendar year to which the credit was applied to the annual credit cap. This date will be noted on the post-approval document received from Commerce. Commerce has assigned each operation a priority placement number, which should be the same on both pre-approval and post-approval documents. List this number in column (a)3. Enter the apportioned credit amount per the post-approval document in column (b).

If you do not have enough lines on the form to enter all of the apportioned credits required to be claimed this tax year, attach a schedule that shows all of the information Part I requires. Enter the total apportioned credit amounts from all attached schedules on line 3. Add lines 1 through 3, and enter the total on line 4. This is the total apportioned credit for renewable energy industry for this year.

Part II - Credit Recapture

Lines 5 and 6 -

On line 5, list the date on which the Certification of the renewable energy business was terminated or revoked. On line 6, enter the full amount of apportioned credits previously claimed.

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

Lines 7 through 11 -

S corporations must complete this portion of Form 342 in order for the S corporation or its shareholders to claim the credit. The S corporation must make an irrevocable election either to claim this taxable year's apportioned credit or to pass this taxable year's apportioned 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 Arizona Form 120S.

If the S corporation elects to pass this year's apportioned credit through to its shareholders, it must first complete Form 342, Part I, then complete Part III, lines 8 through 10, 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 credits allowed to all shareholders may not exceed the amount that would have been allowed for a sole owner.

If the S corporation has been notified of a credit recapture for a credit it passed through to its shareholders, it must also complete Part II and then Part III, line 11, separately for each shareholder.

The S corporation must furnish each shareholder with a copy of the Certification from Commerce and pages 1 and 2 of Form 342. Each shareholder would then complete Part V, if applicable, and Part VI.

Part IV - Partner's Share of Credit and Credit Recapture

Lines 12 through 15 -

A partnership must complete Form 342, Part I, then complete Part IV, lines 12 through 14, 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 credits allowed to all partners may not exceed the amount that would have been allowed for a sole owner.

If the partnership has been notified of a credit recapture, it must also complete Part II and then Part IV, line 15, separately for each partner.

The partnership must furnish each partner with a copy of the Certification from Commerce and pages 1 and 2 of Form 342. Each partner would then complete Part V, if applicable, and Part VI.

Part V - Credit Recapture Summary

Complete Part V as instructed on the form.

Part VI - Total Apportioned Credit Claimed This Taxable Year

Line 18 -

Enter the current year's apportioned credit for renewable energy industry.

Individuals and corporations (including S corporations that elected to claim the credit) - enter the amount from Part I, line 4.

S corporation shareholders - enter the amount from Part III, line 10.

Partners of a partnership - enter the amount from Part IV, line 14.

Also enter this amount and check the box for Form 342 on your tax return.

Corporations - enter the amount on Form 120, line 24; or Form 120A, line 16; or Form 120X, line 24.

S corporations - enter the amount on Form 120S, line 20.

Individuals - enter the amount on Form 140, line 32; or Form 140NR, line 32; or Form 140PY, line 34; or Form 140X, line 38.