

2015 Credit for Qualified Facilities

CONTACTS FOR QUALIFIED FACILITY TAX INCENTIVES PROGRAM

Arizona Commerce Authority

•Application forms •Program guidelines

Website: www.azcommerce.com

Program Manager (602) 845-1200

Arizona Department of Revenue

•Tax forms and instructions •Information and assistance

Website: www.azdor.gov

Taxpayer assistance (602) 255-3381

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

General Instructions

Arizona Revised Statutes (A.R.S.) §§ 43-1083.03 and 43-1164.04 provide refundable individual and corporate income tax credits for expanding or locating a qualified facility in this state. A "qualified facility" means a facility in this state that devotes at least 80% of the property and payroll at the facility to one or more of the following: (a) qualified manufacturing, (b) qualified headquarters, or (c) qualified research. The credit is effective for taxable years beginning from and after December 31, 2012 through December 31, 2019.

The credit is 10% of the lesser of (a) the taxpayer's total capital investment in the qualified facility or (b) \$200,000 for each net new full-time employment position at the qualified facility. The credit is apportioned and claimed in five equal annual installments in each of five consecutive taxable years.

The credit for qualified facilities is in lieu of the following credits, with respect to the same employment positions:

- The credit for new employment, under A.R.S. §§ 43-1074 or 43-1161 (claimed on Arizona Form 345);
- The military reuse zone credit, under A.R.S. §§ 43-1079 or 43-1167 (claimed on Arizona Form 306); and
- The credit for renewable energy industry, under A.R.S. §§ 43-1083.01 or 43-1164.01 (claimed on Arizona Form 342).

To claim the credit for qualified facilities, a business must apply for and receive pre-approval from the Arizona Commerce Authority (Commerce). Commerce cannot pre-approve income tax credits for any one taxpayer in excess of \$30 million in any calendar year. Commerce cannot pre-approve income tax credits in excess of \$70 million annually between the credit for qualified facilities and the credit for renewable energy industry provided under A.R.S. §§ 41-1511, 43-1083.01 and 43-1164.01.

Once pre-approval is received, the 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 business must enter into a managed review with Commerce prior to applying for post-approval. The 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, is a calendar year filer. Company A received pre-approval from Commerce for a qualified facility on March 11, 2013, and received its post-approval on March 14, 2014. Because Company A completed everything necessary to earn the credit in calendar year 2014, the first fifth of the credit must be claimed on the tax return for calendar year 2014.

NOTE: *Each fifth of the credit for qualified facilities 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 qualified facilities a taxpayer may claim can never exceed the amount that is on the post-approval from Commerce.

NOTE: *The business must submit a copy of the Certification of Qualification (Certification) from Commerce with Form 349 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 apportioned credit based on ownership interest. The total of the apportioned credits allowed to all such owners may not exceed the amount that would have been allowed for a sole owner of the business.

The credit is available to an exempt organization that is subject to corporate income tax on unrelated business taxable income (UBTI). The credit must result from the activities that generate UBTI.

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 A.R.S. § 41-1512.

If, within five taxable years after first receiving the credit for qualified facilities, 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. Include the completed form with 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 exempt organization with UBTI, 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 1 - Listing of Post-Approved Qualified Facilities and Apportioned Credit Amount

Lines 1 through 4 -

In Part 1, list qualified facilities 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 qualified facilities 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 facility 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, include a schedule that shows all of the information Part 1 requires. Enter the total apportioned credit amounts from all included schedules on line 3. Add lines 1 through 3, and enter the total on line 4. This is the total apportioned credit for qualified facilities for this year.

Part 2 - Credit Recapture

Lines 5 and 6 -

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

Part 3 - 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 349 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 Arizona Form 120S.

If the S corporation elects to pass this year's apportioned credit through to its shareholders, it must first complete Form 349, Part 1, then complete Part 3, 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 2 and then Part 3, 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 349. Each shareholder would then complete Part 5, if applicable, and Part 6.

Part 4 - Partner's Share of Credit and Credit Recapture

Lines 12 through 15 -

A partnership must complete Form 349, Part 1, then complete Part 4, 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 2 and then Part 4, 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 349. Each partner would then complete Part 5, if applicable, and Part 6.

Part 5 - Credit Recapture Summary

Complete Part 5 as instructed on the form.

Part 6 - Total Apportioned Credit Claimed This Taxable Year

Line 18 -

Enter the current year's apportioned credit for qualified facilities.

Individuals, corporations (including S corporations that elected to claim the credit), and exempt organizations with UBTI - enter the amount from Part 1, line 4.

S corporation shareholders - enter the amount from Part 3, line 10.

Partners of a partnership - enter the amount from Part 4, line 14.

Also enter this amount and check the box for Form 349 on your tax return as instructed below:

Corporations - enter the amount on Form 120, line 22; or Form 120A, line 14; or Form 120X, line 22.

Exempt organizations with UBTI - enter the amount on Form 99T, line 12.

S corporations that elected to claim the credit - enter the amount on Form 120S, line 18.

Individuals - enter the amount on Form 140, line 57; or Form 140NR, line 64; or Form 140PY, line 68; or Form 140X, line 39.