

2022 Credit for Renewable Energy Investment and Production for Self-Consumption by International Operations Centers

Arizona Form
351

For information or help, call one of the numbers listed:

Phoenix (602) 255-3381
From area codes 520 and 928, toll-free (800) 352-4090

Tax forms, instructions, and other tax information

If you need tax forms, instructions, and other tax information, go to the department's website at www.azdor.gov.

Income Tax Procedures and Rulings

These instructions may refer to the department's income tax procedures and rulings for more information. To view or print these, go to our website and select *Reports & Legal Research* from the main menu, then click on *Legal Research* and select a Document Type and a Category from the drop down menus.

Publications

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General Information

This credit provides nonrefundable corporate income tax credits for investment in new renewable energy facilities that produce energy for self-consumption using renewable energy resources if the power will be used primarily for an International Operations Centers. The credit authorized is \$5 million per year for five years. The initial credit is claimed in the year the facility becomes operational.

NOTE: For taxable years beginning from and after December 31, 2018, this credit is no longer available to individual taxpayers. It is available only to corporate taxpayers.

Claiming this Credit

To claim this credit, a taxpayer must apply to the Arizona Department of Revenue (Department) for certification. The department reviews and pre-approves the taxpayer for the credit on a first-come, first-served basis. The maximum amount of this credit a taxpayer can receive is \$5,000,000 per tax year. The department may not authorize tax credits under A.R.S. § 43-1164.05 that exceed, in the aggregate, a total of \$10 million for any calendar year.

The taxpayer must submit a request for final certification to the department within 30 days after the renewable energy facility for which authorization was given becomes operational. See the program guidelines at www.azdor.gov under the "Tax Credits" section.

The taxpayer must qualify for this credit as an International Operations Center (IOC).

To qualify, a taxpayer must:

- Invest at least \$100 million in one or more renewable energy facilities in Arizona.
- The minimum investment of \$100 million must be completed within a 3-year period beginning on the date the initial application is received by the department or by December 31, 2018, whichever is earlier.

- Invest \$1.25 billion in the IOC within 10 years after being certified by the Arizona Commerce Authority (ACA).
- The energy produced must be used for self-consumption
- By the fifth year the facility is in operation, at least 51 percent of the energy produced must be used for self-consumption in Arizona.

NOTE: A taxpayer that is initially authorized as an International Operations Center after December 31, 2018 may not claim this tax credit.

This credit is available to corporate taxpayers, exempt organizations subject to unrelated business taxable income (UBTI), and corporate partners in a partnership. The total of the credits may not exceed the amount that would have been allowed for a sole owner of the business.

If the current taxable year's credit exceeds the taxpayer's tax liability for the taxable year, the taxpayer may carry forward the unused credit to the next five consecutive taxable years. No credit, other than carryovers generated properly, may be claimed for any taxable year beginning after December 31, 2025.

Credit Recapture

If an IOC taxpayer fails to make the \$1.25 billion investment in the center within the 10 years after certification, this credit is recaptured in inverse proportion to the total capital investment made in the IOC by the \$1.25 billion. The recapture must be made on the taxpayer's income tax return for the taxable year in which it is first known that the required investment would not be made within the required time or the taxable year in which the certification was revoked.

Example:

Ten years after its certification, an IOC taxpayer invested \$900 million in its center and claimed \$25 million for this credit (\$5,000,000 per year for 5 years.) The IOC taxpayer will determine its credit recapture by subtracting its total investment (\$900 million) from the required investment (\$1.25 billion) and dividing that amount by the required investment.

IOC taxpayer invests \$900 million in 10 years.

Required investment amount is \$1.25 billion.

Required Investment	\$1,250,000,000
Total Investment	\$ 900,000,000
Amount not invested	\$ 350,000,000
Amount not invested	\$ 350,000,000
Required Investment	\$1,250,000,000
Percentage not invested	28%

Calculate Credit Recapture

Total Credit Claimed	<u>\$25,000,000</u>
Percentage (above)	28%
Amount to Recapture	<u>\$ 7,000,000</u>

The IOC taxpayer will report a credit recapture on its income tax return of \$7 million.

Specific Instructions

Complete the name and taxpayer identification number (TIN) section at the top of the form. Indicate the period covered by the taxable year. Include the completed form and all supporting documentation with the tax return.

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

NOTE – To claim this credit:

- **C Corporations, S Corporations claiming this credit at the corporate level, and exempt organizations with UBTI, complete this credit form and Arizona Form 300, Nonrefundable Corporate Tax Credits and Recapture. Include both completed forms with your tax return.**
- **Partnerships, complete this credit form. Also, complete Form 351-P for each corporate partner of the partnership. Provide each corporate partner a copy of his or her completed Form 351-P. Include Form 351 and one copy of each completed Form 351-P with your tax return.**

Part 1 – Qualification for and Current Taxable Year's Credit

Line 1

If you received any certificate(s) directly from the department, check the "Yes" box and include a copy of the certificate. If you did not, check the "No" box and skip to line 4.

Line 2

Enter the facility code for which you received the credit.

Line 3

Enter the total amount of the credit authorized by the certificate.

Line 4

If you received a Form 351-P, check the "Yes" box and include a copy of the form. If you did not, check the "No" box and skip to Part 2.

Line 5

Enter the facility code indicated on Form 351-P.

Line 6

Enter the name and EIN of the company passing the credit through to you.

Line 7

Enter your portion of the credit indicated on Form 351-P. If you receive this credit from more than one partnership, enter the total of all credits passed through from partnerships.

NOTE: *If you are a partner in multiple entities receiving this tax credit, total the amounts received from all partnerships on Form(s) 351-P and enter the total. Include a copy of each Form 351-P you received with your return.*

Line 8

Add lines 3 and 7 and enter the total.

Line 9

Enter the lesser of line 8 or \$5,000,000. This is your current year's total tax credit. This amount cannot exceed \$5 million.

NOTE: *The maximum credit allowed per taxpayer per taxable year is \$5 million.*

Part 2 – Credit Recapture

NOTE: *If you are a partnership that passed the credit through to corporate partners, do not complete Part 2. You will report the recapture to the partners Form 351-P.*

Line 10

If you received a notice from the department that your credit is subject to recapture, check the "Yes" box, and include a copy of the notice. If you did not, check the "No" box and skip to line 17.

Line 11

Enter the facility code indicated on the certificate.

Line 12

Enter the taxable year(s) in which you took a credit or credit carryover as an IOC.

Line 13

Enter the credit amount previously authorized by the department.

Line 14

Enter the amount of credit carryover that remains unused.

Line 15

Subtract line 14 from line 13 and enter the amount.

Is line 15 less than zero?

If you subtract line 14 from line 13 and your result is less than zero, you may be eligible to use a portion of your credit carryforward.

To determine the amount of credit carryforward you can use, subtract line 13 from line 14. The difference is the amount of this credit you can carry forward.

EXAMPLE:

On your Form 351, line 13 is \$5,000,000 and line 14 is \$4,000,000. If you subtract line 14 from line 13, the result is negative (\$1,000,000).

As instructed above, line 13, \$5,000,000, from line 14, \$4,000,000. The difference is \$1,000,000.

This is the amount of this credit you can carry forward.

Line 16

Enter the greater of line 15 or "0". This is the amount of your direct recapture.

NOTE: *If you are a corporate partner in multiple entities receiving this tax credit, total the amounts received from all partnerships on Form(s) 351-P and enter the total. Include a copy of each Form 351-P you received with your return.*

Line 17

If you received a notice of recapture on Form 351-P, check the "Yes" box and include a copy of the form. If you did not, check the "No" box and skip to Part 3.

Line 18

Enter the name and EIN of the partnership who sent you the notice of recapture.

Line 19

Enter the tax year(s) you claimed the credit.

Line 20

Enter the total amount of the credit subject to recapture passed through to you on Form 351-P, Part 2, line 7.

Line 21

Enter the amount of the credit carryover that remains unused.

Line 22

Subtract line 21 from line 20 and enter the difference.

Is line 22 less than zero?

If you subtract line 21 from line 20 and the difference is less than zero, you may be eligible to use a portion of your credit carryforward.

To determine the amount of credit carryforward you can use, subtract line 20 from line 21. The difference is the amount of this credit you can carry forward.

EXAMPLE:

On your Form 351, line 21 is \$5,000,000 and line 20 is \$4,000,000. If you subtract line 21 from line 20, the difference is negative (\$1,000,000).

As instructed above, you then subtract line 20, \$5,000,000, from line 21, \$4,000,000. The result is \$1,000,000.

This is the amount of credit you can carry forward.

Line 23

Enter the greater of line 22 or "0". This is the amount of the credit recapture passed through to you from a partnership.

Line 24

Add lines 16 and 23 and enter the total.

This is your total recapture amount.

C Corporations, S Corporations that elected to claim this credit at the corporate level, and exempt organizations with UBTI, enter this amount on Form 300, Part 2, line 22.

Part 3 – Available Credit Carryover

Use Part 3 to figure your total available credit carryover from prior taxable years. Columns (a) through (c) represent the tax years for which you claimed this credit. Complete lines 25 through 29, columns (a) through (c), if you claimed the credit on a prior year's return and the credit exceeded your tax liability.

NOTE: *This credit has a five year carryforward. You have five years in which to apply this credit to your Arizona taxes.*

Line 25

Enter the amount of the credit originally computed for the first year you claimed the credit.

Line 26

Enter the amount of the credit you previously claimed on an earlier tax return.

Line 27

Subtract line 26 from line 25 and enter the difference. This is your net available credit carryover.

Line 28

Enter the amount of this credit carryover that was disqualified.

Line 29

Subtract line 28 from line 27 and enter the difference.

Line 30

Add lines 29(a) through (c) and enter the total. **This is your total available credit carryover.**

Part 4 – Total Available Credit

Line 31

Enter the amount from Part 1, line 9.

C Corporations, S Corporations that elected to claim the credit at the corporate level, and exempt organizations with UBTI:

- Enter the amount from line 9. This is your total current year's credit. It is the sum of the current year's credit that you established and also the pass-through credit you received in the current year.
- Also, enter this amount on Form 300, Part 1, line 15, column (a).

Line 32

Enter the amount from Part 3, line 30.

C Corporations, S Corporations that elected to claim the credit at the corporate level, and exempt organizations with UBTI:

- Enter the amount from Part 3, line 30. This is your total available credit carryover for renewable energy investment and production for international operations centers.
- Also, enter this amount on Form 300, Part 1, line 15, column (b).

Line 33

Add lines 31 and 32. Enter the total.

C Corporations, S Corporations that elected to claim the credit at the corporate level, and exempt organizations with UBTI:

- Add line 31 and line 32, enter the total. This is the total available credit that may be applied to the current year's tax liability.
- Also, enter this amount on Form 300, Part 1, line 15, column (c).

Part 5 – Corporate Partner’s Portion of Credit

PASSING THIS CREDIT THROUGH TO CORPORATE PARTNERS OF A PARTNERSHIP

Partnerships must pass this credit through to its corporate partners. Partnerships claiming this credit that have individual partners lose the individual partner’s combined ownership percentage of the credit.

A partnership must complete its own Form 351, Parts 1 through 4 (as necessary) to pass this credit through to its partners.

NOTE: *If you have more than 10 corporate partners, create a similar worksheet to pass through the credit amount. Include that amount with your return.*

To pass this credit amount through to your corporate partners - enter the Tax Year(s) on the notice you received from the Department or from Forms 351-P you received.

Using the table below, complete lines 1 – 10 as follows:

- Enter each corporate partner’s name in column (a)
- Enter the corporate partner’s corresponding ownership percentage of the partnership in column (b)
- Enter the total credit amount from the certificate or Form 351 you received in each line of the worksheet in column (c).

- Multiply column (b) by column (c) enter the result in column (d) for each corporate partner

The amounts indicated in column (d) are the respective corporate partner’s portion of this credit.

Enter the amount(s) from column (d) in each respective corporate partner’s Form 351-P, line 3(c).

Total:

Add the amounts in column (d) and enter the total. This amount will equal the credit amount on the certificate you received from the Department.

To complete the pass through of this credit, the partnership must complete Form 351-P for each corporate partner, and:

- Provide each corporate partner with their respective copy of Form 351-P,
- Include a copy of each completed Form 351-P with its tax return, and
- Keep a copy of each completed Form 351-P for its records.

The corporate partner will then complete its own Form 351 to claim this credit.

NOTE: *Each corporate partner is entitled to only a pro rata share of the credit based on the corporate 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.*

Use this worksheet to figure the amount of the credit to be passed through to each partner.

Tax Year	(a) Corporate Partner	(b) Ownership %	(c) Credit Amount	(d) Corporate Partner’s Portion
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
Total				\$

RECAPTURE OF THIS CREDIT PASSED THROUGH TO CORPORATE PARTNERS OF A PARTNERSHIP

If you passed this credit through to your corporate partners in a previous tax year and then received a notice from the Arizona Department of Revenue that your credit is subject to recapture during this year, you must pass the amount(s) subject to recapture through to your corporate partners that received the credit.

This credit was passed through to your corporate partners based on their ownership percentage (per year). The recapture amount is based on a percentage of the total credit passed through to all partners. You will receive a notice of recapture from the Department indicating the percentage of this credit that is subject to recapture. You must notify your shareholders of their portion of this amount.

To notify your corporate partners of their respective amount(s) of this credit that is subject to recapture from them:

- A. Determine the amount of credit passed through to each partner for all years of the credit
- B. Multiply the amount in A (above) by the recapture percentage (provided by Arizona Department of Revenue)
- C. Complete Part 2 of Form 351-P for each partner informing him/her of the amount of this credit subject to recapture.

Example:

Partnership claimed this credit for five years, 1 through 5. Each year, Partnership claimed the maximum amount, \$5M. The total credit claimed was \$25M.

During the time Partnership claimed this credit, it had 5 corporate Partners:

- Corporate Partner A owned 20% of Partnership for each year, 1 through 5
- Corporate Partner B owned 20% of Partnership for each year 1 through 5
- Corporate Partner C owned 20% of Partnership for years 1 through 3; in year 4, Partner C sold its ownership percentage of Partnership to Corporate Partner D
- Corporate Partner D owned 20% of Partnership for years 1 through 3; for years 4 and 5, Corporate Partner D owned 40% of Partnership
- Corporate Partner E owned 20% of Partnership for each year 1 through 5.

During year 7, Partnership received a notice from the Department indicating 40%, or \$10Million of its credit is subject to recapture.

Using the 351-P Forms it completed for years 1 through 5, Partnership determined it passed through the following amounts of credits to each of its partners for these years:

Corporate Partner	Total Credit Passed Through
Corporate Partner A	\$ 5,000,000
Corporate Partner B	\$ 5,000,000
Corporate Partner C	\$ 3,000,000
Corporate Partner D	\$ 7,000,000
Corporate Partner E	\$ 5,000,000
Total Credit	\$25,000,000

Multiplying each partner's amount of credit "passed through" by the recapture percentage, 40%, Partnership determined the credit amount(s) subject to recapture for each partner is:

Partner:	Credit Amount	Recapture %	Subject to Recapture
Corporate Partner A	\$ 5,000,000	40%	\$ 2,000,000
Corporate Partner B	\$ 5,000,000	40%	\$ 2,000,000
Corporate Partner C	\$ 3,000,000	40%	\$ 1,200,000
Corporate Partner D	\$ 7,000,000	40%	\$ 2,800,000
Corporate Partner E	\$ 5,000,000	40%	\$ 2,000,000
Total Credit	\$25,000,000	40%	\$10,000,000

Partnership completed Form 351-P for each corporate partner above informing it of the amount of this credit that is subject to recapture.

Form 351-P, Distribution to Corporate Partners of a Partnership

Indicate the taxable year for which this credit is being passed through to your corporate partners.

Complete Form 351-P for each corporate partner.

NOTE:

Partnerships use Form 351-P to notify each corporate partner of their share of:

- *The credit to be claimed, or*
- *The credit subject to recapture.*

To distribute the credit to the corporate partners of the partnership (complete lines 1 through 3c):

Line 1

- a) Enter the partnership name
- b) Enter the partnership's EIN
- c) Enter the facility code for which this credit was received.

Line 2

- a) Enter the corporate partner's name
- b) Enter the corporate partner's TIN

Line 3a, 3b, and 3c

- a) Enter the amount of this credit for which the partnership was approved from Part 1, line 9.
- b) Enter the corporate partner's ownership percentage
- c) Multiply line 3(a) by line 3(b) and enter the result.

This is the corporate partner's portion of this credit.

To distribute the recapture amount to the corporate partners of the partnership (complete lines 4 through 7):

Line 4

- a) Enter the partnership name
- b) Enter the partnership EIN

Line 5

- a) Enter the corporate partner's name
- b) Enter the corporate partner's TIN

Line 6

- a) Enter the facility code for which this credit was originally approved
- b) Enter the tax year(s) for which this credit was originally approved

Line 7

Enter the corporate partner's portion of the credit subject to recapture from the worksheet in the instructions.

This is the corporate partner's portion of the credit subject to recapture.