ARIZONA DEPARTMENT OF REVENUE – PROGRAM GUIDELINES

Renewable Energy Investment and Production for Self-Consumption Manufacturers and International Operations Centers Tax Credit

A.R.S. § 43-1083.04 ▪ A.R.S. § 43-1164.05

Section 1: Overview

The Renewable Energy Investment and Production for Self-Consumption by Manufacturers Tax Credit (A.R.S. §§ 43-1083.04 and 43-1164.05) was amended by legislation during the 2015 First Regular Session to include a tax credit for International Operations Centers. The income tax credits are intended to provide incentives to manufacturers or international operations centers that are committed to reducing their carbon footprint by investing in and producing renewable energy for self-consumption. The credits are 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 manufacturing or for international operations centers.

If the power is generated primarily for the purposes of the taxpayer's manufacturing facility, individual and corporate income tax credits are available for taxpayers that invest at least $300 million in new renewable energy facilities in Arizona that generate energy for self-consumption using renewable energy resources. The minimum investment must be completed within a three-year period beginning on the date the initial Application for Preapproval is received or December 31, 2017, whichever is earlier. At least 90% of the energy produced at each renewable energy facility must be used for self-consumption in Arizona and the power must be used primarily for manufacturing.

If the power is generated for the purposes of the taxpayer's international operations centers[1], individual and corporate income tax credits are available for taxpayers that invest at least $100 million in one or more new renewable energy facilities in Arizona that generate energy for self-consumption using renewable energy resources. The minimum investment must be completed within a three-year period beginning on the date the initial application is received or by December 31, 2018, whichever is earlier. A portion of the energy produced must be used for self-consumption for an international operations center in Arizona. By the fifth year, at least 51% of the energy produced must be used for self-consumption for an international operations center in Arizona. An international operations center is a facility that is certified by the Arizona Commerce Authority (ACA) pursuant to § 41-1520. The owner or operator of the international operations center must invest: 1) at least $100 million in each of ten consecutive taxable years with investments greater than $100 million applied as a credit toward the investment required in future years and 2) at least $1.25 billion on or before the tenth anniversary of certification. Investment in new capital assets includes the cost of land, buildings and international operations center equipment.

The credit authorized is $5 million per year for five years for each qualified new renewable energy facility. The maximum credit allowed per taxpayer is $5 million per year. The taxpayer will claim the initial credit for each facility in the year the facility becomes operational. A credit, other than carryovers,

[1] A.R.S. §§ 43-1083.04 and 43-1164.05 was amended per HB 2670 (Laws 2015, Chapter 6) for international operations centers and applies retroactively to taxable years beginning from and after December 31, 2014.

may not be claimed for any taxable year beginning after December 31, 2025. If the power generated is for the taxpayer's international operations center, the taxpayer may not cumulate tax credits exceeding $25 million. To qualify as a separate renewable energy facility, the facility must be located at least one mile from any other renewable energy facility claimed by the taxpayer.

To be eligible to claim the tax credit, a taxpayer must receive preapproval from the Arizona Department of Revenue (ADOR), start construction within six months from the date the Application for Preapproval was submitted, file annual reports to ADOR on the anniversary date of the initial Application for Preapproval, and receive final certification from ADOR for each facility. If the taxpayer fails to make the required minimum investment within the three-year time period, they must cease claiming any credits and recapture any credits already claimed. Furthermore, an international operations center must submit required reports to the ACA and satisfy the minimum annual investment required by § 41-1520.

A facility is not eligible for both the Renewable Energy Investment and Production for Self-Consumption by Manufacturers and International Operations Centers Tax Credit (A.R.S. §§ 43-1083.04 and 43-1164.05) and the Renewable Energy Production Tax Credit (A.R.S. §§ 43-1083.02 and 43-1164.03). The Renewable Energy Production Tax Credit (claimed on Arizona Form 343) is for production of electricity using qualified energy resources that is sold to an unrelated entity or public service corporation instead of using the energy generated for self-consumption by manufacturers or international operations centers.

Section 2: Requirements for a Qualified New Renewable Energy Facility – Manufacturing Facility

If the power is generated primarily for the purposes of the taxpayer's manufacturing facility, the taxpayer is authorized to take an income tax credit if it meets the following requirements pursuant to A.R.S. §§ 43-1083.04 and 43-1164.05:

- The taxpayer must invest at least $300 million in new renewable energy facilities in Arizona that produce energy for self-consumption using renewable energy resources.
- The taxpayer must submit an "Application for Preapproval of Renewable Energy Investment and Production for Self-Consumption by Manufacturers Tax Credit" (Application) to ADOR.
- The $300 million investment must be completed within a three-year period beginning on the date the initial Application is received or December 31, 2017, whichever is earlier. Construction must begin within six months after submitting the Application.
- The taxpayer must invest at least $30 million in each renewable energy facility.
- Each renewable energy facility must have at least 20 megawatts generating capacity or a minimum typical annual generation of 40,000 megawatt hours and produce electricity using a qualified energy resource.
- The facility must be located on land in Arizona that is owned or leased by the taxpayer.
- The qualified renewable energy facility must be located at least one mile from any other renewable energy facility claimed by the taxpayer for it to qualify as a separate facility.

- At least 90% of the energy produced at each renewable energy facility must be used for self-consumption in Arizona and the power must be used primarily for manufacturing.
    - Self-consumption includes the power used by related entities if the related entities are owned directly or indirectly by the same ownership interests that collectively own more than a 50% share. A facility that transfers the power it generates to a utility qualifies under this paragraph if at least 90% of the power is transferred back for self-consumption in Arizona.
    - A lessor of a manufacturing facility that is using power for self-consumption qualifies if the lessee is a manufacturer and the power is transferred as part of the lease to the lessee.
- The taxpayer must report additional information on the anniversary date of the initial Application and request final certification within 30 days after each preapproved facility becomes operational.

Section 3: Requirements for a Qualified New Renewable Energy Facility – International Operations Centers

If the power is generated for the purposes of the taxpayer's international operations centers, the taxpayer is authorized to take an income tax credit if it meets the following requirements pursuant to A.R.S. §§ 43-1083.04 and 43-1164.05:

- The taxpayer must invest at least $100 million in new renewable energy facilities in Arizona that produce energy for self-consumption using renewable energy resources.
- The taxpayer must submit an "Application for Preapproval of Renewable Energy Investment and Production for Self-Consumption by International Operations Centers Tax Credit" (Application) to ADOR.
- The $100 million investment for a new renewable energy facility must be completed within a three-year period beginning on the date the initial Application is received or December 31, 2018, whichever is earlier. Construction must begin within six months after submitting the Application for Preapproval.
- The taxpayer must invest at least $30 million in each renewable energy facility.
- Each renewable energy facility must have at least 20 megawatts generating capacity or a minimum typical annual generation of 40,000 megawatt hours and produce electricity using a qualified energy resource.
- The facility must be located on land in Arizona that is owned or leased by the taxpayer.
- The qualified renewable energy facility must be located at least one mile from any other renewable energy facility claimed by the taxpayer for it to qualify as a separate facility.
- A portion of the energy produced at each renewable energy facility must be used for self-consumption for an international operations center in Arizona. By the fifth year a renewable energy facility is in operation, at least 51% of the energy produced must be used for self-consumption for an international operations center in Arizona.

   - Self-consumption includes the power used by related entities if the related entities are owned directly or indirectly by the same ownership interests that collectively own more than an 80% share. A facility that transfers the power it generates to a utility qualifies as self-consumption if the utility is the same utility that provides power to the owner's international operations center in Arizona.
   - A lessor of an international operations center that uses power for self-consumption qualifies if the lessee is an international operations center and the power is transferred as part of the lease to the lessee.
- The international operations center must be certified by ACA pursuant to § 41-1520 and satisfy the required investment requirements.
   - A minimum annual investment of $100 million in new capital assets, including costs of land, buildings and international operations center equipment in each of ten consecutive taxable years. Investments greater than $100 million in any taxable year may be applied toward the investment requirement in future years.
   - On or before the tenth anniversary of certification, a minimum investment of at least $1.25 billion in new capital assets, including costs of land, buildings and international operations center equipment.

The taxpayer must report additional information on the anniversary date of the initial Application and request final certification within 30 days after each preapproved facility becomes operational.

Section 4: Explanation of the Income Tax Credit

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1. A taxpayer must apply to ADOR to seek preapproval authorization of the income tax credit based on the eligibility requirements noted in Section 2 or Section 3 and reserve a position on the Credit Authorization List under the $10 million calendar year limit. The credit authorized is $5 million per year for five years for each qualified renewable energy facility with a $5 million maximum credit allowed per taxpayer per year. If the power generated is used by international operations centers, the taxpayer, including all affiliates of the taxpayer, the maximum tax credit is $25 million.

   MANUFACUTURING FACILITY EXAMPLE: A taxpayer submits an Application for Preapproval that includes nine qualified new renewable energy facilities. The earliest date the facilities are expected to become operational are one in 2016, two in 2017, three in 2018 and three in 2020. All requirements for preapproval have been satisfied and funds are available under the $10 million limit per calendar year. The taxpayer starts construction within six months after submitting the initial Application, reports the required information on the anniversary date of the initial Application, satisfies the investment requirements and submits a request for final certification within 30 days after each of the preapproved renewable energy facilities become operational. All facilities became operational in the same year they were estimated and ADOR issues final certification. For the first facility that became operational in 2016, the taxpayer may claim a $5 million nonrefundable tax credit in 2016, 2017, 2018, 2019 and 2020. Additional facilities receive final certification but the tax credit is limited to $5 million per taxpayer per year during the five year time period. The table on the following page provides an outline of this example.

# of Facilities	2016	2017	2018	2019	2020	2021	2022	2023	2024
1	$5 M	$5 M	$5 M	$5 M	$5 M				
2		$0	$0	$0	$0	$5 M			
3			$0	$0	$0	$0	$5 M		
3					$0	$0	$0	$5 M	$5 M
Totals	$5 M	$5 M	$5 M	$5 M	$5 M	$5 M	$5 M	$5 M	$5 M

INTERNATIONAL OPERATIONS CENTERS EXAMPLE: A taxpayer submits an Application for Preapproval for five qualified new renewable energy facilities. The earliest date the facilities are expected to become operational are two in 2016, two in 2017, one in 2018. All requirements for preapproval have been satisfied and funds are available under the $10 million limit per calendar year. The taxpayer starts construction within six months after submitting the initial Application, reports the required information on the anniversary date of the initial Application, satisfies the investment requirements, has been issued a certification from ACA pursuant to § 41-1520 and submits a request for final certification within 30 days after each of the preapproved renewable energy facilities become operational. All facilities became operational in the same year they were estimated and ADOR issues final certification. For the first facility that became operational in 2016, the taxpayer may claim a $5 million nonrefundable tax credit in 2016, 2017, 2018, 2019 and 2020 for a total of $25 million. By the fifth year each renewable energy facility is in operation, at least 51% must be used for self-consumption. By the tenth year anniversary of certification, the $1.25 billion investment prescribed in § 41-1520 must have been satisfied.

2. The income tax credit is based on receiving final certification for each preapproved renewable energy facility. ADOR will review the taxpayer's request and issue final certification that includes a facility code that is unique to each approved facility. For a taxpayer that files on a fiscal year basis, the initial tax credit will be claimed on the income tax return for the taxable year in which the facility becomes operational.

3. For a manufacturing facility, if the taxpayer fails to make the $300 million investment within the three-year time period, they must cease claiming any credits and will recapture any credits already claimed. The recapture must be made on the taxpayer's income tax return for the tax year that it was first known that the required investment would not be made within the allowable time period. (A.R.S. *§§ 43-1083.04(K) and 43-1164.05(K))*

4. For international operations centers, the taxpayer must cease claiming any further tax credits and reimburse the amount of all tax credits previously received if the taxpayer fails to: 1) make the $100 million investment within the three-year time period, 2) make a $1.25 billion investment in the international operations center on or before the tenth anniversary of certification or 3) receive final certification by ADOR of an authorized renewable energy facility. The reimbursement 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. The tax credits will be reimbursed in inverse proportion to the total capital investment made in the international operations center divided by $1.25 billion. ADOR may require reimbursement before the tenth anniversary of certification if the facility has been closed or

relocated or the taxpayer has otherwise demonstrated that the $1.25 billion investment will not be timely made. (A.R.S. *§§ 43-1083.04(K) and 43-1164.05(K))*

5. If a certified renewable energy facility no longer meets the requirements or if the facility is sold, the taxpayer may not claim any future credits related to that facility. Notification that the facility no longer meets the requirements or that the facility was sold should be reported to ADOR in advance of filing the annual report on the anniversary date of the taxpayer's initial Application for Preapproval. (A.R.S. *§§ 43-1083.04(L) and 43-1164.05(L))*
6. Co-owners of a company (including partners in a partnership, members of a limited liability company and shareholders of an S corporation) may each claim only the pro rata share of the credit allowed based on ownership interest. The total credit allowed all such owners of the qualified renewable energy facility may not exceed the amount that would have been allowed for a sole owner of the facility. (*A.R.S. §§ 43-1083.04(M) and 43-1164.05(M)*)
7. If the allowable tax credit for a taxpayer exceeds the income tax otherwise due on the taxpayer's income, the amount of the tax credit not used to offset taxes may be carried forward for not more than five consecutive taxable years as a credit against subsequent years' income tax liability. (*A.R.S. §§ 43-1083.04(N) and 43-1164.05(N)*)

Section 5: Income Tax Credit Limitations

1. ADOR cannot approve more than $10 million in income tax credits for a calendar year. The $10 million limit is for the individual income tax credit and corporate income tax credit combined.
2. The amount of income tax credit authorized is $5 million per year for five years for each renewable energy facility with a $5 million maximum credit allowed per taxpayer per year. If the power generated is for the taxpayer's international operations center, the taxpayer may not cumulate tax credits exceeding $25 million.
3. All Applications will be processed on a first come, first served basis.
4. Applications must be submitted by United States Postal Services (USPS) Express Mail. Applications for a renewable energy facility used by an international operations center will be accepted with an origin date no earlier than July 3, 2015.
5. The amount reserved for each taxpayer under the $10 million calendar limit will be based on the estimated completion date for each facility. If the year a facility is completed (or expected to be completed) is different than the year estimated in the Application for Preapproval, the taxpayer must amend the Application for Preapproval with revised dates so the available tax credit can be reserved in the applicable calendar year limit. All Applications for Preapproval (including amended Applications) will be processed on a first come, first served basis.
6. ADOR will deny any subsequent Applications that exceed the $10 million limit even if the amounts that have been certified to any taxpayer are not claimed or a taxpayer otherwise failed to meet the requirements to claim the credit.

   EXAMPLE: Taxpayer A received preapproval for two renewable energy facilities that will be completed over eight years. The taxpayer received final certification for the first facility two *years after submitting the initial Application and the second facility was approved in the third year. The minimum investment was satisfied within the three-year period. However, the annual report indicated the second facility no longer used at least 90% of the power generated for self-consumption in the fourth year the facility was operational. Therefore, the taxpayer could no longer claim this facility in the fourth and fifth year of operation. Although the taxpayer would no longer be able to claim the $5 million tax credit for that facility, there would be no corresponding adjustment to the $10 million calendar year limit.*

EXAMPLE: Taxpayer B received preapproval and final certification for two facilities. However, the taxpayer never claimed the income tax credit. ADOR would not make an adjustment to the $10 million calendar year limit based on the taxpayer not claiming the income tax credit.

7. If a taxpayer fails to start construction within six months after submitting the Application for Preapproval, the preapproval issued by ADOR is void and all monies reserved from the limits revert back to the available limit for the year for which they were initially reserved.

   EXAMPLE: A taxpayer receives preapproval for a $5 million tax credit for renewable energy facilities for an international operations center. ADOR reserved $5 million in the calendar year indicated on the Application for a total of five years for a maximum of $25 million. If the taxpayer fails to start construction with six months after submitting their initial Application, the preapproval that was issued by ADOR is void and all monies previously reserved for this taxpayer will be released in each applicable calendar year. The released funds will be available for an applicant that might have been placed on a waiting list if the $10 million had already been reserved or new applicants.

Section 6: Application for Preapproval – Manufacturing Facility

ADOR will accept an "Application for Preapproval of Renewable Energy Investment and Production for Self-Consumption by Manufacturers Tax Credit" (Application) only by United States Postal Services (USPS) Express Mail. The Application should be submitted by the taxpayer that will make the $300 million investment and hold title to the renewable energy facilities. Upon review of the Application, ADOR will issue a preapproval letter to include the taxpayer name and the credit amount reserved by calendar year.

The Application, according to A.R.S. §§ 43-1083.04(F) and 43-1164.05(F), shall include:

1. Name, address, social security number or federal employer identification number of the applicant.
2. An estimate of the total investment the taxpayer will make over a three-year period beginning on the date the Application is received in new renewable energy facilities in Arizona that produces energy for self-consumption using renewable energy resources.
3. The expected location of each of the taxpayer's facilities that comprise the total investment and the earliest date that each facility is expected to be operational.
4. A statement that at least 90% of the power generated by each facility shall be for self-consumption and shall be used for manufacturing.

ADOR is also requiring the following information on the Application:

1. The business structure of the applicant (a C corporation, an S corporation, a sole proprietorship, a partnership or an LLC).
2. If the applicant business has any affiliates or subsidiaries, all other entities must be listed on the application or a copy of the federal Form 851 must be attached.
3. If this credit will be passed through to shareholders or partners, a schedule should be attached listing the names of the shareholders or partners, with social security numbers or federal employer identification numbers and percent of ownership. If the percent of ownership on the taxpayer's tax return for the tax year for which the credit is being claimed is different from what is shown on the application, the taxpayer must submit an addendum containing the updated information on shareholders or partners and percentages within 30 days of filing the income tax return. Failure to submit an addendum could result in problems with credits claimed on tax returns.
4. The applicant's fiscal year-end.
5. A contact person, with title, phone number and fax number. If this person is not a corporate officer, a Power of Attorney should be included for the contact.
6. The estimated generating capacity, the estimated typical annual generation and estimated typical annual hours of operation for each facility.
7. The type of renewable energy resource used to generate electricity. If biomass, state what type of biomass is used.
8. An affidavit signed by an officer of the applicant company. By signing the affidavit, the company agrees that the information contained in the Application is true and correct under penalty of perjury and they will
    - invest at least $300 million in new renewable energy facilities in Arizona that produce energy for self-consumption using renewable energy resources,
    - begin construction within six months and the $300 million investment will be completed over a three-year period,
    - at least 90% of the power generated by each facility listed will be for self-consumption and used for manufacturing and
    - each renewable energy facility included on the application is at least one mile from any other facility.

Section 7: Application for Preapproval – International Operations Centers

ADOR will accept an "Application for Preapproval of Renewable Energy Investment and Production for Self-Consumption by International Operations Centers Tax Credit" (Application) only by United States Postal Services (USPS) Express Mail with an origin accepted dated no earlier than July 3, 2015. The Application should be submitted by the taxpayer that will make the required investment and hold title to the renewable energy facilities. Upon review of the Application, ADOR will issue a preapproval letter to include the taxpayer name and credit amount reserved by calendar year.

The Application, according to A.R.S. §§ 43-1083.04(F) and 43-1164.05(F), shall include:

1. Name, address, social security number or federal employer identification number of the applicant.
2. An estimate of the total investment the taxpayer will make over a three-year period beginning on the date the Application is received in new renewable energy facilities in Arizona that produces energy for self-consumption using renewable energy resources.
3. The expected location of each of the taxpayer's facilities that comprise the total investment and the earliest date that each facility is expected to be operational.
4. A statement that a portion of the energy produced at each renewable energy facility will be used for self-consumption for an international operations center in Arizona.
5. A statement that by the fifth year a renewable energy facility is in operation, at least 51% of the energy produced must be used for self-consumption for an international operations center in Arizona.

ADOR is also requiring the following information on the Application:

1. The business structure of the applicant (a C corporation, an S corporation, a sole proprietorship, a partnership or an LLC).
2. If the applicant business has any affiliates or subsidiaries, all other entities must be listed on the application or a copy of the federal Form 851 must be attached.
3. If this credit will be passed through to shareholders or partners, a schedule should be attached listing the names of the shareholders or partners, with social security numbers or federal employer identification numbers and percent of ownership. If the percent of ownership on the taxpayer's tax return for the tax year for which the credit is being claimed is different from what is shown on the application, the taxpayer must submit an addendum containing the updated information on shareholders or partners and percentages within 30 days of filing the income tax return. Failure to submit an addendum could result in problems with credits claimed on tax returns.
4. The applicant's fiscal year-end.
5. A contact person, with title, phone number and fax number. If this person is not a corporate officer, a Power of Attorney should be included for the contact.
6. The estimated generating capacity, the estimated typical annual generation and estimated typical annual hours of operation for each facility.
7. The type of renewable energy resource used to generate electricity. If biomass, state what type of biomass is used.

8. An affidavit signed by an officer of the applicant company. By signing the affidavit, the company agrees that the information contained in the Application is true and correct under penalty of perjury and they will

    - invest at least $100 million in new renewable energy facilities in Arizona that will produce energy for self-consumption using renewable energy resources,
    - begin construction of at least one renewable energy facility listed on the application within six months and the $100 million investment will be completed over a three-year period,
    - a portion of the power generated by each facility listed will be for self-consumption and used for international operations centers in Arizona,
    - by the fifth year the renewable energy facility is in operation, at least 51% of the energy produced will be used for self-consumption for international operations centers in Arizona,
    - each renewable energy facility included on the application is at least one mile from any other facility and
    - application for certification to the Arizona Commerce Authority, including any required reporting requirements and minimum annual and total investments of at least $1.25 billion in new capital assets, including costs of land, buildings and international operations center equipment will be completed as required by § 41-1520.

Section 8: Processing Application for Preapproval and Placement on the Credit Authorization List

1. Only Applications sent through the USPS Express Mail will be accepted. No Applications will be accepted through any other delivery methods including hand delivery to ADOR. International Operations Center Applications must include an Express Mail origin accepted date no earlier than July 3, 2015.

2. All Express Mail Applications should be sent to:

Renewable Energy for Self-Consumption Tax Credit Program
Arizona Department of Revenue
P.O. Box 29099
Phoenix, Arizona 85038

3. Each Application will be assigned a placement number that reflects the date and time on the Express Mail label. If multiple Applications have the same date and time on their Express Mail label, they will be put in order through a process of a random, blind draw.

4. If the Application is reviewed and determined to be invalid or in some way not eligible for the credit, the taxpayer will be notified in writing and will not be added to the Credit Authorization List. *APPLICATIONS THAT DO NOT INCLUDE ALL REQUIRED INFORMATION ARE INVALID AND WILL NOT BE ACCEPTED.*

5. If the Application is reviewed and determined to be eligible for the tax credit, the taxpayer will be placed on the Credit Authorization List to reserve funds based on the calendar year each facility is expected to become operational for each of the five years. ADOR will issue the taxpayer a preapproval notice outlining the amount authorized and the requirements necessary to maintain eligibility for the income tax credit.

EXAMPLE: Taxpayer C estimates a facility will become operational in October 2016 and ADOR issues a preapproval notice and reserves $5 million in calendar year 2016, 2017, 2018, 2019 and 2020. Construction of the facility is delayed and the facility becomes operational in June 2017. The taxpayer submits an amended Application as soon as it is known the estimated date of completion will fall in a different calendar year. ADOR will process the amended Application and reserve the $5 million in calendar year 2017, 2018, 2019, 2020 and 2021 (but only if funds are still available in 2021). If the total $10 million had already been reserved for 2021 at the time the amended Application was submitted according to the Express Mail origin accepted date, the taxpayer would be eligible for $5 million in calendar year 2017, 2018, 2019 and 2020 but no funds would be available for 2021.

Section 9: Maintain Eligibility for the Income Tax Credit

Start construction within six months:

To maintain eligibility for the income tax credit after receiving preapproval, the applicant must start construction within six months after submitting the Application for Preapproval. To document that construction has begun pursuant to A.R.S. §§ 43-1083.04(H) and 43-1164.05(H), the applicant must submit written notice to ADOR and provide a summary level progress report to describe the construction activity that has occurred during the six month time period for each preapproved facility.

Annual reporting requirement:

The applicant must report additional information to ADOR on the anniversary date of the initial Application for Preapproval. The preapproval notification will include the due date for the annual report. Pursuant to A.R.S. §§ 43-1083.04(I) and 43-1164.05(I), the annual report will include:

1. Documentation of the taxpayer's progress towards the $300 million investment for a manufacturing facility or $100 million investment for international operations centers. This documentation is not required after the department receives a report stating that the minimum investments have been satisfied.
2. For a manufacturing facility, documentation for each facility that demonstrates that at least 90% of the power generated by each renewable energy facility is for self-consumption.
3. For international operations centers, documentation for each facility that demonstrates that a portion of the power generated by each renewable energy facility is for self-consumption or by the fifth year of operation that 51% of the power generated is for self-consumption.
4. The megawatts of generating capacity and minimum typical annual generation in megawatt hours for each facility that has received final approval based on the definition of a renewable energy facility.

Request final certification 30 days after each facility becomes operational:

The taxpayer must submit a request for final certification to ADOR no later than 30 days after each facility becomes operational. The facility is considered operational when the facility begins producing electricity that is either transmitted through a transmission facility to a grid connection with a public or private electric transmission or distribution utility system or used directly by the manufacturer or international operations centers. ADOR will review the request within 30 days and either issue a final certification of the tax credit or issue a denial if it is determined that the requirements have not been satisfied. ADOR will issue a facility code that is unique to each facility as part of the final certification. The taxpayer will include the facility code and a copy of the certificate with their tax return for the facility for which a credit is claimed.

> *EXAMPLE: A taxpayer received preapproval for four new renewable energy facilities to be used by a manufacturing facility. The first facility became operational on October 2, 2015. The total investment for this facility and other preapproved facilities still under construction is $120 million but the taxpayer will invest the required $300 million within the three-year time period. The taxpayer must submit a request for final certification to ADOR no later than November 1, 2015. The request for final certification will be considered timely if submitted on the day following a Saturday, Sunday or legal holiday. November 1, 2015 falls on Sunday, so the request for final certification will be considered timely if submitted on November 2, 2015. The taxpayer is eligible to claim the credit in their fiscal year in which the facility became operational if ADOR issues a final certification even if the $300 million investment has not yet been satisfied. If the taxpayer fails to invest $300 million within the three-year time period, the taxpayer must cease claiming any future credits and recapture any tax credits already claimed.*
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> *If this example applied to renewable energy facilities to be used by an international operations center, the timing of when the request for final certification must be submitted to ADOR would remain the same as noted above but the required investment is $100 million within the three-year time period.*

Renewable energy facility ceases to meet the requirements or the facility is sold:

If a renewable energy facility no longer meets the requirements §§ 43-1083.04 or 43-1164.05 or if the facility is sold, the taxpayer may not claim any future credits related to that facility.

Section 10: Final Certification and Claiming the Tax Credit

ADOR will review the final certification request within 30 days after receiving the completed request and either issue a final certification of the new renewable energy facility or issue a denial of the credit if it is determined that the requirements have not been met. If approved, a Certificate will be transmitted to the taxpayer with a unique facility code with the amount of credit in each year the company is entitled to claim the credit. If a manufacturing facility has more than one approved facility, the Certificate will list the facilities and year the taxpayer is eligible to claim the credit based on the $5 million limit per taxpayer per year.

When the taxpayer files its income tax return, Arizona Form 351 must be completed to claim the credit with a copy of the Certificate enclosed with the tax return. If the credit is being passed through to partners or shareholders, each partner or shareholder must include a copy of the Certificate in their income tax return along with Arizona Form 351 to claim the credit. If the taxpayer's tax liability is less than the credit amount approved, the unused portion of the credit can be carried forward for five years. This tax credit is nonrefundable and not transferable.

Section 11: Recapture of Tax Credit

The taxpayer must cease claiming any tax credits for facilities that received final certification, including any prior year carry forward, and recapture any credits already claimed if the taxpayer fails to: 1) make the required investment within the three-year period, 2) receive final certification for the renewable energy facility or 3) the international operations center certification has been revoked under § 41-1520 for failing to invest $1.25 billion in the center within ten years after certification. The recapture must be made on the taxpayer's income tax return for the tax year in which it was first known that the required investment would not be made within the required time period. ADOR may give special consideration or allow a temporary exemption from reimbursement if there is extraordinary hardship due to factors beyond the taxpayer's control.

If the recapture is due to revoked certification for failing to invest $1.25 billion within ten years after certification per § 41-1520, the recapture will be in inverse proportion to the total capital investment made in the international operations center divided by $1.25 billion. ADOR may require recapture before the tenth anniversary of certification of an international operations center if the facility has been closed or relocated or the taxpayer has otherwise demonstrated that the $1.25 billion investment will not be timely made.

Section 12: Appeal Process

If ADOR denies approval or approves less credit than the amount requested on an Application for Preapproval or Final Certification, the taxpayer may appeal the decision in accordance with A.R.S. Title 41, Chapter 6, Article 10. The taxpayer may appeal this decision; however, the denial prohibits the taxpayer from claiming a tax credit under this program unless the appeal is successful.

If ADOR denies approval or approves less credit than the amount requested on an Application for Preapproval or Final Certification, ADOR will reserve the amount of credit requested by the taxpayer from the $10 million calendar year credit limit, in the event that an appeal from the taxpayer is upheld.

Section 13: Definition of Terms

For purposes of applying for and maintaining eligibility for the Renewable Energy Investment and Production for Self-Consumption by Manufacturers and International Operations Centers Tax Credit, the following terms are either defined by ADOR Program Guidelines or defined in A.R.S. §§ 43-1083.04 or 43-1164.05. If a term is not defined, the most commonly accepted meaning will apply. For purposes of this program:

1. "Application for Preapproval" or "Application" means the ADOR form "Application for Preapproval of Renewable Energy Investment and Production for Self-Consumption by Manufacturers" and "Application for Preapproval of Renewable Energy Investment and Production for Self-Consumption by International Operations Centers Tax Credit" and all required attachments to demonstrate eligibility for the tax credit.

2. "Credit Authorization List" is the list of taxpayers that are eligible to receive an income tax credit based on the initial Application. Placement on the list does not guarantee that the taxpayer will receive a Final Certification of Renewable Energy Investment and Production for Self-Consumption by Manufacturers and International Operations Centers Tax Credit.
3. "Final Certification" means the Arizona Department of Revenue (ADOR) issued the taxpayer a Renewable Energy Facility Certification with a unique facility code for each authorized renewable energy facility pursuant to §§ 43-1083.04 and 43-1164.05.
4. "Self-Consumption" includes the power used by related entities if the related entities are owned directly or indirectly by the same ownership interests that collectively own more than 50% for a manufacturing facility and by 80% for international operations centers. A manufacturing facility that transfers the power it generates to a utility qualifies if at least 90% of the power is transferred back for self-consumption in Arizona. International operations centers that transfers the power it generates to a utility qualifies if a portion of the energy is transferred back for self-consumption in Arizona but then transfers at least 51% for self-consumption by the fifth year.
5. "Manufacturer" includes a lessor of a manufacturing facility that is using power for self-consumption if the lessee is a manufacturer and the power is transferred as part of the lease to the lessee.
6. "International Operations Center" is a facility that is certified by the Arizona Commerce Authority pursuant to § 41-1520.
7. "Renewable energy facility" means a facility in which the taxpayer invested at least $30 million, has at least 20 megawatts generating capacity or a minimum typical annual generation of 40,000 megawatt hours, is located on land in Arizona owned or leased by the taxpayer and that produces electricity using a renewable energy resource.
8. "Renewable energy resource" means a resource that generates electricity through the use of only (a) solar light, (b) solar heat, (c) wind or (d) biomass including fuel cells supplied directly or indirectly with biomass generated fuels.
9. "Biomass" means organic material that is available on a renewable or recurring basis, including:
    a. Forest-related materials, including mill residues, logging residues, forest thinning, slash, brush, low-commercial value materials or undesirable species, salt cedar and other phreatophyte or woody vegetation removed from river basins or watersheds and woody material harvested for the purpose of forest fire fuel reduction or forest health and watershed improvement.
    b. Agricultural-related materials, including orchard trees, vineyard, grain or crop residues, including straws and stover, aquatic plants and agricultural processed coproducts and waste products, including fats, oils, greases, whey and lactose.
    c. Animal waste, including manure and slaughterhouse and other processing waste.
    d. Solid woody waste materials, including landscape or right-of-way tree trimmings, rangeland maintenance residues, waste pallets, crates and manufacturing, construction and demolition wood wastes but excluding pressure-treated, chemically-treated or painted wood wastes and wood contaminated with plastic.

e. Crops and trees planted for the purpose of being used to produce energy.

f. Landfill gas, wastewater treatment gas and biosolids, including organic waste byproducts generated during the wastewater treatment process.

10. "Taxpayer" means an individual, a corporation, an S corporation, a partnership or a limited liability company.

- Program Guidelines available at **www.azdor.gov**:
  Click on the "Tax Credits" link on left side of home page.

- Questions regarding the program can be directed to:
  Darlene Teller at (602) 716-6436 or Duong Nguyen at (602)716-6048