

2023 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.

NOTE: Only capital investments in a qualified facility that are made not more than thirty-six months before submitting an application for preapproval are included in the computation of the credit.

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:

- Qualified manufacturing,
- Qualified headquarters,
- Qualified research.

This credit is effective for taxable years beginning from and after December 31, 2012, through December 31, 2030, and is limited to 10% of the lesser of:

- The taxpayer's total capital investment in the qualified facility, or,
- If the total qualifying investment is less than \$2,000,000,000, \$200,000 for each net new full-time employment position(s) with job duties associated with the qualified facility.
- If the total qualifying investment is \$2,000,000,000 or more, \$300,000 for each net new full-time employment position that has job duties associated with the qualified facility.

The credit is apportioned and claimed in five equal annual installments in each of five consecutive taxable years and is in lieu of the credit for New Employment claimed on Form 345, with respect to the same employment positions.

To claim this credit 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 that combined would exceed \$125 million in any calendar year.

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, 2022, and received its post-approval on March 14, 2023. Because Company A completed everything necessary to earn the credit in calendar year 2023, the first fifth of the credit must be claimed on the tax return for calendar year 2023.

NOTE: Each fifth of the credit for qualified facilities must be claimed on a timely filed original income tax return, including extensions. If you do not claim this credit on a timely filed original return, you cannot claim this credit on an amended return. **Failing to claim this credit on a timely-filed original return will result in loss of this credit for that taxable year.**

The taxpayer may claim all five annual installments of a credit that was preapproved before January 1, 2031 by the Arizona Commerce Authority notwithstanding any intervening repeal or other termination of the credit.

The amount of the credit for qualified facilities a taxpayer may claim can never exceed the amount indicated 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 (TIN) 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 TIN. The TIN for a corporation, an S Corporation, an exempt organization with UBTI, or a partnership is the taxpayer's employer identification number (EIN). 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

List the qualified facilities for which you are entitled to claim a credit for this taxable year. The first fifth of the credit(s) for qualified facilities must be claimed on the tax return that includes the post-approval date and must be filed timely, including any extensions.

Lines 1 and 2

Enter the following information in the columns indicated on lines 1 and 2:

- (a)1 Allocation Year – 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.
- (a)2 First Installment Tax Year Ending – the tax year the first installment of the credit may be claimed. This date is found on the post-approval letter received from Commerce. Enter the date in MMDDYYYY format.
- (a)3 Post-Approval Number – the priority placement number issued to each facility by Commerce.
- (b) Apportioned Credit Amount – list the apportioned credit amount (one-fifth per year for 5 years) indicated on the Post-Approval for the qualified facility.

Line 3

If you received this credit from more than two qualified facilities, include a separate schedule providing the same information required for lines 1 and 2. Total the credit(s) on a separate schedule, and include it with this form. Enter that total on line 3.

Note to lines 4 and 5: *If you received a pass through of this credit from more than one partnership and/or S Corporation, total the amounts received from all Forms 349-P and/or Forms 349-S and enter the amount. Include a copy of each Form 349-P and/or Form 349-S you received with your return.*

Line 4

Enter the total amount of this credit passed through from partnerships on Form 349-P, line 3c.

Line 5

Enter the total amount of this credit passed through from S Corporations on Form 349-S, line 3c.

Line 6

Add the amounts in column (b) of lines 1 through 5. Enter the total.

Part 2 - Full-Time Employment Positions Vacant More than 150 Days

Lines 7 and 8

If you had full-time employment positions that were vacant for more than 150 days since this credit was approved, enter the requested information in the columns provided for lines 7 and 8:

- (a) Allocation Year – the calendar year to which the credit was originally applied to the annual credit cap.
- (b) Post-Approval Number – the priority placement number issued to the facility by Commerce.
- (c) Number of Employees – the total number of employees at the facility for which the position(s) was vacant for more than 150 days since the credit was approved.
- (d) Reduction – \$4,000.
- (e) Total – multiply the amount in column (c) by \$4,000 [column (d)]. Enter the result.

Line 9

If you had more than two facilities with full-time employment positions vacant for more than 150 days, include a separate schedule providing the same information required for lines 7 and 8. Total the amounts on the included schedule. Enter that total.

Line 10

Add the amounts in column (e) of lines 7 through 9. Enter the total.

Part 3 - Net Credit

Line 11

Subtract the amount on line 10 from the amount on line 6. Enter the difference. If less than zero, enter "0".

Part 4 - Credit Recapture

Line 12

Enter the date on which the certification of the business as a qualified facility was terminated or revoked.

Line 13

Enter the total amount(s) of the credit(s) previously claimed by you for the facility(ies) whose certification was terminated or revoked. If more than one certification was terminated or revoked, enter the total amount. Include a schedule providing the detailed amount(s) of credit being recaptured.

Note to lines 14 and 15: *If you received a credit recapture from more than one partnership and/or S Corporation, total the amount(s) of credit recapture passed through from all Forms 349-P and/or Forms 349-S and enter the total. Include a copy of each Form 349-P and/or Form 349-S you received with your return.*

Line 14

Enter the partner's portion of this credit to be recaptured from Form 349-P, Part 2, line 7.

Line 15

Enter the S Corporation shareholder's portion of this credit to be recaptured from Form 349-S, Part 2, line 7.

Line 16

Add lines 13 through 15. Enter the total. This is your total recapture amount.

Part 5 - S Corporation Credit Election and Shareholder's Share of Credit and Credit Recapture

Lines 17, 17a, & 17b – S Corporation Credit Election

The S Corporation must complete line 17 and line 17a or line 17b. The S Corporation must make an irrevocable election either to claim the current taxable year credit at the corporate level or to pass the credit through to its shareholders. The S Corporation election is made by:

- Entering the date the S Corporation taxable year ends in the box provided.
- Checking the box on line 17a electing to claim the current taxable year credit at the corporate level; or,
- Checking the box on line 17b electing to pass the current taxable year 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 claim the credit at the corporate level, continue to Part 7.

If the S Corporation elects to pass this credit through to its shareholders, proceed to the instructions for completing Form 349-S on page 5.

If passing this credit through to the shareholders:

- Complete Form 349-S for each shareholder.
- Provide each shareholder with a copy of his or her completed Form 349-S.
- Include a copy of each completed Form 349-S with your tax return.
- Keep a copy of each completed Form 349-S for your records.

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.

NOTE: *Trusts and estates that are shareholders of S Corporations, are not eligible to claim this credit. However, the share of an S Corporation owned by a grantor trust that is disregarded for federal income tax purposes is treated as owned by the grantor. The grantor may claim his or her share of the credit.*

Part 6 - Partner's Share of Credit and Credit Recapture

A partnership claiming this credit *must* pass it through to its partners. Skip to the instructions for completing Form 349-P on page 4.

- Complete Form 349-P for each partner.
- Provide a completed copy of Form 349-P to each partner.
- Provide a copy of the Certificate of Renewable Energy Production Tax Credit received from Commerce to each partner.
- Include a copy of each completed Form 349-P with your tax return.
- Keep a copy of each completed Form 349-P for your records.
- Do not complete the remainder of this form.

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

NOTE: *Trusts and estates that are partners in a partnership are not eligible to claim this credit. However, the share of a partnership owned by a grantor trust that is disregarded for federal income tax purposes is treated as owned by the grantor. The grantor may claim his or her share of the credit.*

Part 7 - Credit Recapture Summary

Line 18

Enter the taxable year(s) for which you claimed a credit for a business as a qualified facility whose certification has been terminated or revoked.

Line 19

Enter the total amount of this credit originally claimed on prior returns.

Individuals, C Corporations, S Corporations that claimed the credit at the corporate level, and exempt organizations with UBTI: Enter the amount from Part 4, line 16.

Individuals that did not make the Small Business Income election - Also, enter this amount on Form 301, Part 2, line 29.

Individuals that made the Small Business Income election - Also, enter this amount on Form 301-SBI, Part 2, line 22.

C Corporations, S Corporations that claimed the credit at the corporate level, and exempt organizations with UBTI: Also, enter this amount on Form 300, Part 2, line 20.

Part 8 - Total Apportioned Credit Claimed This Taxable Year

Line 20

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

Individuals, 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 11.

Partnerships: Enter "0".

S Corporations that passed the credit through to individual shareholders: Enter "0".

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

Individuals that did not make the Small Business Income election: Also, enter the amount on Form 140, line 58; or Form 140NR, line 65; or Form 140PY, line 67; or Form 140X, line 45.

Individuals that made the Small Business Income election: Also, enter this amount on Form 140-SBI, line 61; or Form 140NR-SBI line 59; or Form 140PY-SBI, line 61; or Form 140X-SBI, line 61.

C Corporations: Also, enter the amount on Form 120, line 22; or Form 120A, line 14; or Form 120X, line 22(c).

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

S Corporations that elected to claim the credit at the corporate level: Also, enter the amount on Form 120S, line 20.

Form 349-P, Distribution to Partners of a Partnership

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

Complete Form 349-P for each partner of the partnership, *except for* trust or estate partners. However, a partnership ownership share that is owned by a grantor trust that is disregarded for federal income tax purposes is treated as owned by the grantor. The grantor may claim his or her share of the credit.

The partnership must furnish each partner with their completed copy of Form 349-P, including additional schedules as needed.

NOTE: *Form 349-P can be used to distribute the partnership's share of this credit to its partners, or it can be used to notify the partners of the amount of the credit to be recaptured.*

Part 1 - Distribution of the Credit

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

Line 1

Enter the partnership name, EIN, and the post-approval received from Commerce in the spaces provided.

Line 2

Enter the partner's name and TIN in the spaces provided.

Line 3a

Enter the amount of this credit from the partnership's Form 349, Part 3, line 11.

Line 3b

Enter the partner's ownership percentage.

Line 3c

Multiply line 3a by line 3b and enter the result.

This is the partner's portion of the credit.

Part 2 - Notification of Credit Recapture

To notify the partners of the amount of the credit that must be recaptured (complete lines 4 through 7):

Line 4

Enter the partnership's name and EIN in the spaces provided.

Line 5

Enter the partner's name and TIN in the spaces provided.

Line 6

Enter the post-approval number received from Commerce and the date the certification was terminated or revoked in the spaces provided.

Line 7

Enter the total amount of the credit(s) previously passed through to the partner for the facility(ies) whose certification was terminated or revoked. This is the partner's portion of the credit to be recaptured.

This is the partner's portion of the credit to be recaptured.

Form 349-S, Distribution to Shareholders of an S Corporation

Enter the taxable year for which this credit is being passed through to your shareholders.

Complete Form 349-S for each shareholder of the S Corporation, *except for* trust or estate shareholders. However, an S Corporation ownership share that is owned by a grantor trust that is disregarded for federal income tax purposes is treated as owned by the grantor. The grantor may claim his or her share of the credit.

The S Corporation must furnish each shareholder with a completed copy of Form 349-S, including additional schedules as needed.

NOTE: *Form 349-S can be used to distribute the S Corporation's share of this credit to its shareholders, or it can be used to notify the shareholders of the amount of the credit to be recaptured.*

Part 1 - Distribution of the Credit

To distribute the credit to the S Corporation shareholders (complete lines 1 through 3):

Line 1

Enter the S Corporation name, EIN, and the post-approval number received from Commerce in the spaces provided.

Line 2

Enter the shareholder's name and TIN in the spaces provided.

Line 3a

Enter the amount of this credit from the S Corporation's Form 349, Part 3, line 11.

Line 3b

Enter the shareholder's ownership percentage.

Line 3c

Multiply line 3a by line 3b and enter the result.

This is the shareholder's portion of the credit.

Part 2 Notification of Credit Recapture

To notify the shareholders of the amount of the credit that must be recaptured (complete lines 4 through 7):

Line 4

Enter the S Corporation name and EIN in the spaces provided.

Line 5

Enter the shareholder's name and TIN in the spaces provided.

Line 6

Enter the post-approval number received from Commerce and the date the certification was terminated or revoked in the spaces provided.

Line 7

Enter the total amount of the credit(s) previously passed through to the shareholder for the facility(ies) whose certification was terminated or revoked. This is the shareholder's portion of the credit to be recaptured.

This is the shareholder's portion of the credit to be recaptured.