



ARIZONA DEPARTMENT OF REVENUE – PROGRAM GUIDELINES
Renewable Energy Investment and Production for Self-Consumption
by International Operations Centers Tax Credit

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

Section 1: Overview

The income tax credit is intended to provide incentives to international operations centers that are committed to reducing their carbon footprint by investing in and producing renewable energy for self-consumption. The credit is 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 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 operation center equipment.

The authorized tax credit is \$5 million per taxpayer per year for five years for one or more qualified new renewable energy facility not to exceed \$25 million over different taxable years. The taxpayer will claim the initial credit in the year the facility becomes operational. A credit, other than carryovers, may not be claimed for any taxable year beginning after December 31, 2025.

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 International Operations Centers Tax Credit (A.R.S. §§ 43-1083.04 and 43-1164.05) and the

¹ Chapter 299 (HB 2528, Laws 2017) amended A.R.S. §§ 42-1083.04 and 43-1164.05 to repeal the language related to a manufacturing facility effective from and after December 31, 2017. The December 31, 2017 deadline for a manufacturing facility to complete the \$300 million investment was set when the tax credit was enacted.

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 international operations centers.

Section 2: Requirements for a Qualified New Renewable Energy Facility

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 3: Explanation of the Income Tax Credit

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 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. The maximum credit per taxpayer, including all affiliates of the taxpayer, is \$25 million.

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. 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))

4. 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))
5. 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))
6. 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 4: 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 and corporate income tax credit combined.
2. The amount of income tax credit authorized is \$5 million per year for five years for one or more qualified renewable energy facility not to exceed \$25 per taxpayer.
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.
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.

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.

Section 5: Maintain Eligibility for the Income Tax Credit

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(H) and 43-1164.05(H), the annual report will include:

1. Documentation of the taxpayer's progress towards the \$100 million investment. This documentation is not required after the department receives a report stating that the minimum investments have been satisfied.
2. Documentation for each qualified 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.
3. Written certification from the Arizona Commerce Authority that the taxpayer's international operations centers satisfy the requirements according to § 41-1520.

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 6: Claiming the Tax Credit

ADOR will review the annual report. 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.

When the taxpayer files its income tax return, Arizona Form 351 must be completed 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 7: 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 8: 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, 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 9: Definition of Terms

For purposes of applying for and maintaining eligibility for the renewable energy investment and production for self-consumption by 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 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 for the renewable energy investment and production for self-consumption 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 80%. 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. "International Operations Center" is a facility that is certified by the Arizona Commerce Authority pursuant to § 41-1520.
6. "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.

7. "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.
8. "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.
9. "Taxpayer" means an individual, a corporation, an S corporation, a partnership or a limited liability company.

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| <ul style="list-style-type: none">• Program Guidelines available at www.azdor.gov under the "Tax Credits" link.• Questions regarding the program can be directed to:
Darlene Teller at (602) 716-6436 or Elizabeth St. Clair at (602)716-6322 |
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