



## QUALITY JOBS TAX CREDIT PROGRAM

### Program Guidelines<sup>1</sup>

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#### Section 1. Overview

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##### Background

The Quality Jobs Tax Credit Program (A.R.S. §41-1525) was established by the Arizona legislature in 2011 as part of the Competitiveness Package (Laws 2011, HB 2001, 50<sup>th</sup> Legislature, 2<sup>nd</sup> Special Session, Chapter 1 [HB2001]). The goal of the program is to encourage business investment and the creation of high-quality employment opportunities in the state. The program accomplishes this goal by providing tax credits to employers creating a minimum number of net new quality jobs and making a minimum capital investment in Arizona.

Administered by the Arizona Commerce Authority (Commerce), the Quality Jobs Tax Credit (QJTC) Program (Program) offers up to \$9,000 of Arizona income or premium tax credits spread over a three year period for each net new quality job.

##### Pre-Approval for Tax Credits (Optional)

A taxpayer seeking first year tax credits under the Program may, at its option, apply for pre-approval by submitting a completed “Request for Pre-Approval” form to Commerce. If the Request for Pre-Approval is granted, Commerce will issue a written notification of pre-approval to the company that identifies the amount of tax credits being reserved for the taxpayer. The pre-approval is only valid for the tax year for which it is granted; the tax year in which both the capital investment is made and the quality jobs are created.

##### Applying for Tax Credits

To apply for tax credits under the Program (whether or not pre-approval has been obtained), the taxpayer must timely report to Commerce that it has met the requirements of A.R.S. §41-1525(B) for first year tax credits. This is accomplished through the submittal of an “Application for Quality Jobs Tax Credits” (“Application”) to Commerce. Similarly for second and third year tax credits, the taxpayer must timely report to Commerce that it continues to meet the requirements of the Program by and through the timely submittal of an Application. *See Section 3 for details on filing deadlines.*

If the applicant meets all eligibility requirements, Commerce will issue a Tax Credit Allocation Letter (Allocation Letter) to the taxpayer identifying the credit the taxpayer may be able to claim with the Arizona Department of Revenue (Revenue) or the Arizona Department of Insurance (Insurance), as applicable.

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<sup>1</sup> These Guidelines are provided to assist applicants. In case of conflict between what is presented here and the Arizona Revised Statutes, the statutes shall prevail. See A.R.S. §§20-224.03, 41-1525, 43-1074 and 43-1161. Please also refer to Commerce Ruling 12-02 for additional details.

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## Section 2. Eligibility Requirements

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A taxpayer is eligible for quality job tax credits if it:

- Submits a timely Application for and receives an Allocation Letter from Commerce; **and**
- Complies with the employer and business requirements set forth in A.R.S. §§23-214(B), 35-391 & 35-393; **and**
- Is in compliance with the requirements of A.R.S. §41-1525(B) and makes a capital investment and creates Qualified Employment Positions ( “QEPs,” ), as follows:
  - For locations in a urban/metro area of the state, the taxpayer must make a minimum capital investment of \$5 million and create at least 25 net new QEPs during the same tax year; **OR**
  - For locations in any other area of this state, the taxpayer must make a minimum capital investment of \$1 million and create at least 5 net new QEPs during the same tax year; **and**
- Remits a non-refundable processing fee depending on the total amount of QJTCs being claimed for first, second, and third year credits with each Application for tax credits.

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## Section 3. Tax Credit Provisions and Limitations

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The Program offers the following Arizona tax incentive to eligible taxpayers that are approved by Commerce.

**Income or Premium Tax Credits.** Under A.R.S. §§43-1074 or 43-1161 for income tax credits and A.R.S. §20-224.03 for premium tax credits, for years beginning on or before July 31, 2017, a tax credit is allowed for employers creating net new QEPs in Arizona. The tax credit is up to \$9,000, spread over a three year period, per net new QEP. Tax credits can be used to offset Arizona income or premium tax liability on a dollar for dollar basis but cannot be sold or transferred. If the allowable tax credit exceeds the tax liability of the taxpayer in any of the three years in which the tax credit is granted, any unused amount may be carried forward for up to five consecutive taxable years.

Co-owners business (including partners in a partnership, and shareholders of an S corporation) may each claim only the pro rata share of the credits allowed based on ownership interest. The total credits allowed all such owners may not exceed the amount that would have been allowed for a sole owner of the business. A.R.S. §§43-1074(H) and 43-1164(H)

### **Tax Credit Limitations**

- A. Commerce cannot approve more than 10,000 first year tax credits under the program each fiscal year (July 1<sup>st</sup> through June 30<sup>th</sup>) for all eligible taxpayers, or more than 400 first year QEPs for a single taxpayer. A taxpayer may, at its option, submit a Request for Pre-Approval, as described in Section 1, to reserve credits under the fiscal year cap.
- B. A taxpayer filing a combined or consolidated Arizona tax return is considered to be a single taxpayer for purposes of the QJTC program. A taxpayer with multiple Arizona locations is limited to credits on 400 first year QEPs in any given year. A.R.S. §41-1525(C)
- C. Tax credits are calculated as follows during the three year period in which they are granted:

- i. The Tax Year in which both the qualifying minimum capital investment is made and QEPs are created (Tax Year One): \$3,000 per net new QEP created during the taxable year or partial year of employment. **Note:** Only QEPs created on or after July 1, 2011 qualify for credits.
  - ii. The Tax Year immediately following Tax Year One (Tax Year Two): \$3,000 per QEP employed for the second full taxable year of continuous employment. These are QEPs created in Tax Year One and continuously maintained through the end of Tax Year Two.
  - iii. The Tax Year immediately following Tax Year Two (Tax Year Three): \$3,000 per QEP, employed for the third full taxable year of continuous employment. These are QEPs created in Tax Year One and continuously maintained through the end of Tax Year Three.
- D. A credit is allowed for QEPs in the second and third tax years only when a credit was claimed and allowed for the QEP in the previous tax year(s).
- E. Pursuant to A.R.S. §41-1525(G), if an Application contains information that is materially false, the taxpayer is ineligible for tax credits and the amount of tax credits allowed in preceding taxable years based on the false information is subject to recovery by Revenue or Insurance, as appropriate, plus penalties and interest. A.R.S. §§20-224.03(K), 43-1074(K) and 43-1161(K)
- F. A taxpayer who claims a credit under the Military Reuse Zone program, Defense Contractor program or the Renewable Energy Tax Incentive program (A.R.S. §§20-224.04, 43-1077, 43-1079, 43-1083.01, 43-1164.01, 43-1165 or 43-1167) shall not claim a credit under the QJTC program with respect to the same employment positions.
- G. If a company has more than one non-contiguous location and can demonstrate eligibility for each such location, Commerce may allocate credits for both locations simultaneously or consecutively, as long as the 400 QEP limitation is not exceeded (A.R.S. §41-1525(C)). The taxpayer must submit a separate Application for tax credits for each location at which it intends to claim a credit. Capital investments made and QEPs created at non-contiguous locations cannot be aggregated for purposes of meeting minimum investment or QEP standards.
- H. Prior to issuing an allocation of tax credits, Commerce may check some or all of the reported expenses to ensure compliance and will request documentation of the expenses, as necessary. Acceptable documentation of capital investment includes copies of paid invoices and cancelled checks. Other documentation may include: a real estate settlement sheet, county affidavit of property value, Arizona business property statement, copies of capital leases for equipment, or a Federal IRS Form 4562 and all supporting schedules that identify, at a minimum, the piece of equipment, the date acquired, where placed in service and the cost.

Commerce may require additional documentation, conduct inspections or audits, as necessary, to verify compliance. The company must maintain records of expenditures for each Application in order to certify costs to Commerce or Revenue.

- I. Quality Jobs tax credits are allowed for net new Qualified Employment Positions, which are positions that meet the following requirements:
  - i. The position must be Permanent, with a minimum of 1,750 hours per year of full-time employment. The calculation of hours worked shall be based on the employee's normal work week.
  - ii. The position must be filled for at least 90 days during the first taxable year, the tax year in which both the qualifying minimum capital investment is made and qualified job created. **NOTE:** A new position filled during the last 90 days of the taxable year shall NOT be considered a new QEP in the next taxable year.
  - iii. The position must be filled for the full taxable year during both the second and third tax years of employment of continuous employment.
  - iv. The position must be filled by an Arizona resident legally authorized to work in the U.S.
  - v. The position must be filled by an employee who has not been employed by the taxpayer within 12 months before the current date of hire, except for those relocating to Arizona from another state.
  - vi. Benefits associated with the position must include health insurance coverage for the employee for which the employer offers to pay at least 65% of premium or membership cost. If an employer is self-insured for employee health costs, the employer must provide documentation showing the employer offers to pay at least 65% of the plan administration costs, or some other fixed cost that is similar to a regular premium. The day the health insurance coverage is offered to the employee is the day the eligibility begins (as long as all other QEP requirements have been met).
  - vii. Job duties must be performed primarily (more than 50%) at the location at which the tax credit is being claimed.
  - viii. Must be paid the median county wage as computed annually by Commerce.<sup>2</sup>

County Median Wage for tax years beginning:	On or before 12/31/11	1/1/12 through 12/31/12
Apache	\$29,682	\$29,765
Cochise	\$31,450	\$32,739
Coconino	\$27,997	\$30,181
Gila	\$31,533	\$30,826
Graham	\$29,640	\$31,616
Greenlee	\$44,866	\$44,720
La Paz	\$23,878	\$23,109
Maricopa	\$33,155	\$33,966
Mohave	\$27,955	\$28,018

<sup>2</sup> New wage standards for the following tax year will be available from Commerce in December of each year.  
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Navajo	\$30,202	\$30,389
Pima	\$31,678	\$32,677
Pinal	\$30,139	\$32,365
Santa Cruz	\$26,062	\$27,643
Yavapai	\$29,390	\$30,118
Yuma	\$25,168	\$25,210
Source: Arizona Department of Administration		

### **Application Deadline**

In accordance with A.R.S. §41-1525(E), to qualify a taxpayer must timely report information to Commerce as follows:

- a) For income tax credits, all Applications must be filed with Commerce by the earlier of (i) six months after the end of the tax year in which the credits were earned or (ii) the date the taxpayer files its tax return with Revenue for the tax year in which the credits were claimed or allowed. Failure to timely report to Commerce disqualifies the taxpayer from the credit.
- b) For premium tax credits, all Applications must be filed with Commerce by the earlier of (i) six months after the end of the tax year in which the credits were claimed or (ii) the due date of the tax return (March 1<sup>st</sup>). Failure to timely report to Commerce disqualifies the taxpayer from the credit.

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### **Section 4. Management of the QJTC Program's Fiscal Year Cap**

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- A. Commerce shall allocate tax credits to eligible taxpayers on a first-come, first-served basis. The date of receipt of a Request for Pre-Approval or, if the company has not submitted a Request for Pre-Approval, an Application dictates the cap year from which the allocation is made. The total amount of credits approved for a taxpayer shall be applied against the Program's fiscal year cap in which the approval occurred. Commerce shall not accept Applications for or approve tax credits from the Commerce's fiscal year's cap until the first business day of that fiscal year. Once a taxpayer's Request for Pre-Approval and/or Application is approved, the first year tax credits are reserved and will be allocated to the company so long as eligibility requirements are met.
- B. Applications and Requests for Pre-Approval can be accepted by Commerce year-round for the QJTC program. When a Request for Pre-Approval or Application is submitted, if sufficient cap is not available the taxpayer will receive any remaining cap amount.
- C. Any tax credits returned to Commerce during the same fiscal year in which they were originally allocated shall be re-allocated to other eligible taxpayers according to the next priority placement number.
- D. Commerce can allocate tax credits from a fiscal year's cap only during that fiscal year; unused tax credits do not roll forward into the next fiscal year's cap.
- E. Commerce will notify applicants via the Commerce's website ([www.azcommerce.com](http://www.azcommerce.com)) if and when the fiscal year's cap has been exhausted.

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## Section 5. Acceptance of Applications

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The acceptance process described in this section will determine the priority placement number assigned to Applications. Commerce will date and time stamp each Application on the date of receipt and assign a priority placement number accordingly. The priority placement number determines the order in which Commerce allocates that fiscal year's cap.

Commerce shall only accept original Applications delivered via United States Postal Service, private delivery service or hand delivery. Any other form of delivery for an Application, including emailed or faxed copies will not be accepted by Commerce, when determining the priority placement number.

Commerce shall accept Applications for a fiscal year's cap on or after the first business day of every fiscal year. Any Application for a fiscal year's cap received prior to the first business day of the fiscal year will be rejected by Commerce and the applicant notified.

Any Application for a fiscal year's cap that is not substantially complete will be considered withdrawn by the applicant and the applicant notified. Once an Application is deemed withdrawn by the applicant, processing will cease and the priority placement number will be voided. If an Application is considered withdrawn, a company may file a revised Application for the same tax year at a later date and receive a new priority placement number.

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## Section 6. Submittal and Processing Applications for Quality Jobs Tax Credits

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A. Application can be made by submitting the Commerce form: "Application for Quality Jobs Tax Credits". Applications must be original applications, delivered via United States Postal Service, private delivery service or hand delivery. Any other form of delivery for an Application, including emailed or faxed copies will not be accepted by Commerce.

The Application shall include, but is not limited to:

- 1) Name, contact information and federal identification number for the company
- 2) Name and contact information of an individual who can be contacted with regard to the application
- 3) The physical address of the location where tax credits are being claimed
- 4) The average hourly wage and the total amount of compensation paid to QEPs and for all employees
- 5) The total number of QEPs and the amount of credits earned in the current taxable year
- 6) The estimated amount of tax credits to be used in the taxable year to offset tax liability and the estimated amount of tax credits to be available for carry forward with their date of expiration
- 7) The actual number of jobs and the amount of credits earned and claimed on the prior year's tax return
- 8) The actual amount of credits used to offset tax liabilities on the prior year's tax return and the actual amount of credits available for carry forward as reported on the prior year's tax return with their date of expiration
- 9) The amount of capital investment made during the current taxable year with its associated proof of investment and the amount of capital investment made during the preceding

taxable year

- 10) Proof of registration and participation in the federal E-Verify program, in accordance with A.R.S. §§ 23-214(B). Further, pursuant to A.R.S. §§35-391 and 35-393, the applicant is certifying that the company does not have scrutinized business operations in Iran or Sudan and is not otherwise lawfully precluded from participating in any public funding activity with any Federal, State or Local Government. Signing an Application without disclosing all pertinent information about business investments and business operations in Iran or Sudan shall result in rejection or cancellation of the Application. The State may also exercise any other remedy available by law.
- 11) For any year in which the taxpayer is claiming first year credits, the taxpayer must also report and certify the following additional information:
  - a. The increase in the number of QEPs for which credit is sought is the least of:
    - i. The total number of filled QEPs created at the location during the taxable year
    - ii. The difference between the average number of full-time employees in the current taxable year and the average number of full-time employees during the immediately preceding taxable year
    - iii. Four hundred QEPs per taxpayer each year
  - b. That all employees filling a QEP were employed for at least 90 days during the first taxable year
  - c. That none of the employees filling QEPs were employed by the taxpayer during the 12 months before the current date of hire except for those relocating to this state
  - d. That all employees for whom second and third year credits are claimed are in QEPs for which first and second year credits were allowed and claimed by the taxpayer on the original first and second year tax returns
  - e. That all employees for whom credits are taken performed their job duties primarily at the designated location of the business where tax credits are being claimed
- 12) Other information necessary for the management and reporting of the incentives
- 13) The company must submit an affidavit signed by an officer of the taxpayer. By signing the affidavit the taxpayer agrees, but is not limited, to the following:
  - a. That the information contained in the initial application is true and correct under penalty of perjury
  - b. To furnish records of expenditures to Commerce or Revenue or Insurance on request
  - c. To allow site visits and audits to verify the applicant's continuing qualification and the accuracy of information submitted to Commerce.
  - d. To the adjustment or recapture of any amount of income tax credit due to noncompliance
  - e. If the document contains information that is materially false, the taxpayer is ineligible for the tax credits and is subject to recovery of the amount of tax credits allowed in preceding taxable years based on the false information, plus penalties and interest.
  - f. That any information submitted to Commerce under A.R.S. §41-1525(D)(2)(e) through (j) is exempt from title 39, chapter 1, article 2 and considered to be confidential and is not subject to disclosure except:
    - i. To the extent that the person or organization that provided the information

consents to the disclosure.

ii. To Revenue for use in tax administration.

- B. During review of the substantially complete Application, Commerce may request additional information, conduct a site visit or discuss the Application with the company. If the company does not satisfy any Commerce request related to an Application within the allotted timeframe, the Application will be considered withdrawn by the taxpayer and the priority placement number assigned to the Application will be voided.
- C. Commerce will attempt to make a determination with regard to each Application within 30 days after the date of receipt of a complete Application.
- D. If Commerce denies the taxpayer an allocation of tax credits, the taxpayer may appeal the decision in accordance with A.R.S. Title 41 Chapter 6 Article 10. However, the denial prohibits a taxpayer from receiving tax incentives under this program unless the appeal is successful.
- E. If the taxpayer is eligible for tax credits, Commerce will request the taxpayer submit a non-refundable processing fee. Once the fee is submitted to Commerce, Commerce shall issue an Allocation Letter and transmit a copy to Revenue or Insurance, as applicable. The Allocation Letter will include the name, FEIN and location of the business, the amount of capital investment made and QEPs created, the dollar amount of tax credits the company is eligible to claim and the tax years the credit is available, the priority placement number and, for Insurers, their National Association of Insurance Commissioners (NAIC) number.

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## Section 7. Claiming the Tax Credits

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To claim and use or carry forward tax credits a taxpayer must complete all three of the following steps.

1. Apply for tax credits by timely submitting an Application to Commerce. Failure to timely file the required Application with Commerce shall result in ineligibility for tax credits.
2. Submit a non-refundable processing fee and receive a Tax Credit Allocation letter from Commerce for the tax year.
3. To claim income tax credits, the taxpayer must file Arizona Form 345 with its original state tax return to Revenue on or before the due date of the tax return, including any extensions for the year for which the credit is earned or allowed. The taxpayer must also attach a copy of the Allocation Letter from Commerce to the Arizona tax return. To download Revenue's forms, visit <http://www.azdor.gov/>.

To claim a premium tax credit, on or before March 1<sup>st</sup> of each year, an eligible taxpayer must submit to Insurance the completed Premium Tax and Fees Report (Form E-TAX) accompanied by an electronically scanned copy of the Application (in Adobe Acrobat PDF format) that the taxpayer submitted to Commerce. The taxpayer must also attach a copy of the allocation letter from Commerce to the Arizona tax return. **Note:** in order to timely submit the return to Insurance, a taxpayer should not wait to receive Commerce's allocation letter before claiming the credit with Insurance. However, an Insurance taxpayer must submit the

Tax Credit Allocation Letter to Insurance within 30 days of the date on the Letter. If the credit amount identified on the Letter is less than the credit the taxpayer claimed on the return, the taxpayer must submit an amended tax return and the additional tax payment with the Letter within 30 days of the date on the Letter. To download Insurance tax forms and instructions, visit <http://www.azinsurance.gov>.

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## Section 8. Definitions of Program Terms

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For purposes of applying for and receiving an Allocation Letter for the Program, the following terms are either defined by Commerce or defined in A.R.S. §41-1525. If a term is not defined, the most commonly accepted meaning will apply. For purposes of this Program:

1. "Application" means the substantially complete Commerce form "Application for Quality Jobs Tax Credits" and all required attachments to apply for an Allocation Letter.
2. "Business day" means a day other than Saturday, Sunday, a legal holiday or the day the State of Arizona observes a legal holiday.
3. "Capital investment" means expenditure to acquire, lease or improve property that is used in operating a business in Arizona, including land, buildings, machinery and fixtures. Capital investment does not include expenditures prior to July 1, 2011.
4. "Date of receipt" notwithstanding A.R.S. §1-218, means the date an Application or Request for Pre-Approval is delivered to and accepted by Commerce via United States Postal Service, private delivery service or hand delivery. Any other form of delivery for an Application or Request for Pre-Approval, including emailed or faxed copies will not be accepted by Commerce.
5. "Eligible" means a taxpayer for whom an Application has been approved and Commerce has issued an Allocation Letter.
6. "Fiscal year cap" or "cap": means the limitation prescribed by A.R.S. §41-1525(C) for allocation in a specific fiscal year.
7. "Job duties are performed primarily" means that more than fifty (50) percent of the individual's job duties are performed at a single location of the business measured by the number of hours the person works at said facility where the tax credit is being claimed vs. all hours worked for the taxpayer.
8. "Net new" means the difference between the average number of full-time employment positions in the current tax year and the average number of full-time employment positions in the previous tax year at a location.
9. "Permanent" means an employment position that is not established for a specified or limited period of time.
10. "Primarily engaged" means that more than 50% of a company's business activity at a particular location, measured by revenues received, expenses incurred, square footage, or number of individuals employed.
11. "Priority placement number" means the order in which Program's 10,000 new jobs fiscal year cap is allocated to eligible taxpayers. The order is established by the date of receipt of the



taxpayer's Application or Request for Pre-Approval.

12. "Qualified employment position" or "QEP" or QEPs" means a position that meets the qualifications of section 3(l) of the Program Guidelines.
13. "Request for Pre-Approval" means the substantially complete Commerce form "Request for Pre-Approval" and all required attachments to demonstrate eligibility for a Tax Credit Allocation Letter.
14. "Substantially complete" means all questions in the Application or Request for Pre-Approval are fully addressed by the taxpayer and all documents required by Commerce are attached or can be supplied within 14 calendar days after receipt of notification by Commerce of any deficiencies. One extension of an additional 14 calendar days may be requested by the applicant and granted by the program manager. Applications or Request for Pre-Approvals that are not substantially complete will be considered withdrawn by the applicant, processing of the Application or Request for Pre-Approval by Commerce will cease and the priority placement number assigned to the Application or Request for Pre-Approval will be voided.
15. "Tax credit" or "credit" means the income or premium tax credits against Arizona tax liability provided under A.R.S. §§20-224.03, 43-1074 and 43-1163.

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