QUALITY JOBS TAX CREDIT PROGRAM

Program Rules & Guidelines (Rules)[1]

Section 1. Overview

The Quality Jobs Tax Credit Program (A.R.S. § 41-1525) was established by the Arizona Legislature in 2011 and is administered by the Arizona Commerce Authority (the "Authority"). The goals of the Quality Jobs Tax Credit Program (the "Program") are to encourage business investment and high-quality job creation in the State. The Program accomplishes these goals by providing tax credits to taxpayers whose demonstrated investment and job creation meet or exceed statutory thresholds (as more fully described in *Rules Section 2*, the "Statutory Thresholds.")

Specifically, the Program offers up to $9,000 of Arizona income or premium tax credits for each net new quality job created over a three-year period at one business Location by a qualifying taxpayer[2]. To qualify, a taxpayer in an Urban Area must create at least twenty-five (25) net new quality jobs and make a requisite minimum capital investment within a 12-month period prescribed below; a taxpayer in a Rural Area must create at least five (5) new quality jobs and make a requisite minimum capital investment within a 12-month period. *See Rules Section 2.*

Program credits may be claimed in annual increments of $3,000 each over a period of up to three taxable years.[3] The *initial* annual credit increment of $3,000 is sometimes referred to as a "first-year credit;" the *succeeding* annual increments of $3,000 each are sometimes referred to either as "second-year credits" and "third-year credits," or as "continuing credits." *See Rules Section 3*.

To obtain Program credits, a taxpayer must apply for pre-approval by submitting a completed Request for Pre-Approval to the Authority. If the taxpayer's Request for Pre-Approval is granted and the taxpayer pays the requisite processing fee, the Authority will issue a written notification of pre-approval (a "Pre-Approval Letter") to the taxpayer identifying the number of credits reserved for the taxpayer. The number of credits reserved for the taxpayer generally corresponds to the number of quality jobs anticipated for creation by the taxpayer over a three-year period. *See Rules Section 4.*

Following receipt of a Pre-Approval Letter, a taxpayer is eligible to claim Program credits once the taxpayer, within a 12-month period that begins on the date of the first payment intended for application as a required capital investment and ending on or before the close of the calendar year first following the calendar year in which the Pre-Approval Letter is issued, (i) makes the requisite minimum investment *and* (ii) creates the requisite minimum number of new quality jobs. *See Rules Section 5.*

The first taxable year for which Program credits can be claimed may, at the taxpayer's discretion, be either (i) the taxable year in which *both* requirements are satisfied; OR (ii) the taxable year in which the 12-month eligibility period terminates.[4] The taxpayer can also claim first-year Program credits in the two immediately succeeding taxable years, assuming job creation continues in either or both of such years.

After the close of the first taxable year elected by the taxpayer as set forth above, the taxpayer must timely report and certify to the Authority that it satisfied the Program's requirements. This is accomplished through submittal to the Authority of an "Application for Quality Jobs Tax Credits" ("Application") by the statutory deadline. *See Rules Section 6.* Similarly, for second-year and third-year tax credits associated with those first-year credits (as well as any carry forward credits), the taxpayer must report and certify in a

[1] These Rules are intended to help taxpayers understand and apply for tax credits under the Program. Section 10 of these Rules provides a glossary of capitalized terms used in the Rules. In the case of any conflict between the Rules and governing statutes, the statutes will prevail.

[2] As a technical matter, there are circumstances in which job creation (and the resulting earning of Program credits) may extend over a period that *exceeds* three years or 36 months. *See Rules Section 5.*

[3] Hence, two distinct *three-year periods* are pertinent under the Program: (i) a three-year (or somewhat longer) period during which a taxpayer may generate credits resulting from creation of net new quality jobs (assuming that the taxpayer has satisfied the requisite statutory thresholds for investment and job creation in the first 12 months of the three-year period) and (ii) a three taxable-year period over which credits may be claimed on the taxpayer's tax return in increments of $3,000 per year for each qualified net new quality job.

[4] As a technical matter, a taxpayer is not precluded from satisfying the investment and job creation thresholds before submitting a Request for Pre-Approval or before obtaining a Pre-Approval Letter. Doing so, however, does not extend the deadlines for filing an Application for first-year credits or for filing a tax return in order to claim first-year credits. See Rules Section 6 and Rules Section 7.

timely manner to the Authority that it continues to meet the requirements of the Program through timely submittal of additional Applications.

If the taxpayer demonstrates that all eligibility requirements have been satisfied for a taxable year, the Authority will issue an annual Tax Credit Allocation Letter (an “Allocation Letter”) identifying the maximum credit amount the taxpayer may claim with the Arizona Department of Revenue (“Revenue”) or the Arizona Department of Insurance (“Insurance”), as the case may be, for the taxable year. *Rules Section 7* provides details regarding the method by which a taxpayer claims the applicable tax credit.

The Authority is authorized to allocate up to 10,000 credits in each calendar year to the owner(s) of a business that is located in the state before June 30, 2025. Tax credits are allocated to eligible taxpayers on a “first-come, first-served” basis within each such calendar year.

Section 2. Eligibility Requirements

A taxpayer is eligible to claim credits in accordance with the Program if the taxpayer does ALL of the following:

- Operates a business that is located in the State. For purposes of the Program, a business shall be deemed to be located in the State if it maintains regular operating hours at a Location.
- Submits a Request for Pre-Approval and receives a Pre-Approval Letter from the Authority following payment of the requisite processing fee.
- Satisfies specified statutory thresholds in a timely manner and, accordingly, (i) makes a Capital Investment and (ii) creates new Qualified Employment Positions (“QEPs”), as follows:
  - For locations in an Urban Area, the taxpayer makes a minimum Capital Investment *(See Rules Section 5)* and creates at least 25 new QEPs within a 12-month period that begins on the date of the first payment intended for application as a required capital investment and ending not later than the close of the calendar year first following the calendar year in which the Pre-Approval Letter is issued; ***OR***
  - For locations in a Rural Area, the taxpayer makes a minimum Capital Investment *(See Rules Section 5)* and creates at least five new QEPs within a 12-month period that begins on the date of the first payment intended for application as a required capital investment and ending not later than the close of the calendar year first following the calendar year in which the Pre-Approval Letter is issued.
- Submits a timely Application for Program credits and receives an Allocation Letter from the Authority.
- Complies with the employer requirement set forth in A.R.S. § 23-214(B).

Section 3. Tax Credit Computation

Eligible taxpayers owning a business that is located in this state before June 30, 2025 may receive the following Arizona tax incentive:

Income or Premium Tax Credits. In accordance with A.R.S. §§ 43-1074 or 43-1161 (pertaining to income tax credits) and A.R.S. § 20-224.03 (pertaining to premium tax credits), a tax credit is allowed for taxpayers that satisfy Statutory Thresholds for investment and job creation within a 12-month period that begins on the date of the first payment intended for application as a required capital investment and ending on or before the last day of the calendar year first following the calendar year in which the Pre-Approval Letter was issued. The tax credit for each net new qualified employment position (QEP) created is up to $9,000 (claimed equally in annual increments of $3,000 each over a three-year period).

More particularly, the tax credit increments are calculated as follows during the three-year period:

i. The taxable year in which either (i) both Statutory Thresholds are satisfied or (ii) the 12-month eligibility period terminates (“Tax Year One”; *see Rules Section 1* above):
   $3,000 per net new QEP created during the taxable year. This credit increment is referred to by statute as a first-year credit.

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ii. The taxable year immediately following Tax Year One ("Tax Year Two"): $3,000 per QEP for which a credit was claimed and allowed for Tax Year One (or its equivalent – *see Rules Section 5* below) provided the QEP (or a replacement QEP) is maintained without a period of vacancy greater than ninety (90) days through the end of Tax Year Two. This credit increment is referred to by statute as a second-year credit.

iii. The taxable year immediately following Tax Year Two ("Tax Year Three"): $3,000 per QEP for which a credit was claimed and allowed in Tax Year Two (or its equivalent – *see Rules Section 5* below) provided the QEP is maintained without a period of vacancy greater than ninety (90) days[5] through the end of Tax Year Three. This credit increment is referred to by statute as a third-year credit.

Once all eligibility requirements have been satisfied, additional first-year credits may be claimed by a taxpayer for the two succeeding taxable years if job creation continues in either or both of those taxable years. Thus, first-year credits may be claimed by a taxpayer in up to three consecutive and distinct taxable years. As a result, when second-year and third-year credits associated with all first-year credits are taken into consideration, a taxpayer *may* actually claim Program credits for as many as *five* taxable years, assuming that the taxpayer continues to meet all statutory requirements throughout the five-year period. Appendix A to these Rules sets forth an example illustrating the circumstances in which a taxpayer may claim Program credits over a five-year period.

The Program's non-refundable tax credits can be used to offset Arizona income or premium tax liability (as applicable) on a dollar-for-dollar basis, but cannot be sold or transferred. If the allowable tax credit for any given taxable year exceeds the taxpayer's tax liability, the excess (representing the unused credit amount) may be carried forward by the taxpayer for up to five consecutive taxable years.

Co-owners of a business (including partners of a partnership, members of a limited liability company, or shareholders of an S corporation) may each claim only the pro rata share of the credits allowed based on their respective ownership interest in the business. The total credits allowed all such co-owners may not exceed the amount that would have been allowed if the business were owned by just one person. However, if partners of a partnership, members of a limited liability company, or shareholders of an S corporation are used as a "pass-through" entity to a trust, estate, or other fiduciary to claim tax credits, the trust's pro rata share of the tax credits will not be able to be claimed and will surrendered.

Section 4. Submittal and Processing of Requests for Pre-Approval

The pre-approval process is designed to provide assurance to taxpayers that Program credits will be available when they satisfy the Statutory Thresholds and to establish the requisite Statutory Thresholds to be applied for calculation of credits. The Program's Calendar Year Cap of 10,000 first-year credits each year is allocated on a first-come, first-served basis among eligible taxpayers seeking credits. A taxpayer seeking credits must submit a Request for Pre-Approval, which, among other information, includes (i) the taxpayer's anticipated quality job creation (including wage levels) over a three-year period, (ii) the taxpayer's anticipated level of capital investment that will be expended during the 12-month eligibility period; and (iii) the taxpayer's intent to satisfy the Statutory Thresholds not later than the close of the calendar year first following the calendar year in which a Request for Pre-Approval is approved.

A. The Authority accepts Requests for Pre-Approval from taxpayers unless or until it advises, via the Authority Website, that the Calendar Year Cap for that year has been met. The Authority does not accept Requests for Pre-Approval for a calendar year earlier than the first day of the calendar year in which the cap is to be applied.

[5] The period in which a QEP may be vacant is ninety (90) days total from the date the QEP was originally filled to the end of the current tax year for the entire second-year and third-year period, rather than ninety days for the second-year period and another ninety days for the third-year period. *See* A.R.S. §§ 20-224.03, 43-1074, and 43-1161.

B. The Authority dates and time stamps each Request for Pre-Approval and assigns a Priority Placement Number. The Priority Placement Number associated with a Request for Pre-Approval determines the order in which the Authority will allocate the current Calendar Year Cap among all submitted Requests for Pre-Approval. Credits allocated to a taxpayer in a Pre-Approval Letter reduce the number of remaining credits available from the then current Calendar Year Cap in an amount equal to all three years of anticipated first-year credits.

C. Requests for Pre-Approval are required to be submitted electronically through the Authority's Electronic Application System ("EASY") on any day on or after the first business day of the then current calendar year unless the Calendar Year Cap has been exhausted. EASY automatically dates and time stamps each Request for Pre-Approval thereby establishing a taxpayer's Priority Placement Number.

D. During its review of a Request for Pre-Approval, the Authority may request additional information, conduct a site visit, or otherwise discuss the Request for Pre-Approval with the taxpayer regarding any matter that may arise in connection with the Application. If a taxpayer fails to provide additional information within 14 calendar days after request by the Authority (or up to 28 calendar days if the taxpayer seeks and receives a compliance extension within the initial 14-day period), the Request for Pre-Approval will be considered "withdrawn." A taxpayer may receive additional extensions for good cause upon a showing of extreme hardship or undue burden being experienced by the taxpayer (extreme hardship or undue burden experienced by a third-party consultant or other representative of taxpayer shall not constitute adequate basis for an extension). If a Request for Pre-Approval is considered withdrawn, the original Priority Placement Number will be cancelled. In any such case, the taxpayer may file a new Request for Pre-Approval at any time and consequently receive a *new* Priority Placement Number.

E. If a taxpayer intends to satisfy the investment and job creation requirements at more than one Location either concurrently or during different time periods, the taxpayer must submit *multiple* Requests for Pre-Approval in order to claim credits associated with such Locations, each of which will be assigned a distinct Priority Placement Number. A taxpayer may satisfy the applicable Statutory Thresholds at different Locations under distinct Priority Placement Numbers pursuant to varying levels of capital investment and wages. Each Application will then be treated as an independent Application.

F. The Authority will attempt to make an eligibility determination with regards to each Request for Pre-Approval within 45 calendar days after the date of receipt of a Substantially Complete Request for Pre-Approval.

G. If it determines that the taxpayer is qualified to receive tax credits, the Authority will issue a Pre-Approval Letter after the taxpayer pays a processing fee equal to one percent of the total dollar amount of credits (or $90 per QEP) reserved for the taxpayer. The processing fee must be paid by check, certified check or wire transfer. No other form of payment is permitted.[6] A Pre-Approval Letter, among other things, identifies the number of credits reserved for the taxpayer from the 10,000 credit Calendar Year Cap (which number will generally correspond to the number of first-year QEPs anticipated for creation by the taxpayer over the relevant three-year period) as well as the Designated Location at which the Statutory Thresholds will be satisfied.

H. If the Statutory Thresholds are not satisfied by the prescribed deadline, the taxpayer's Pre-Approval Letter is considered "void" and the taxpayer cannot claim Program credits unless the taxpayer obtains *another* Pre-Approval Letter reserving credits following submission of *another* Request for Pre-Approval.

I. A Pre-Approval Letter does not guarantee the receipt of tax incentives under the Program because, among other reasons, a Pre-Approval Letter is issued before the Authority determines the taxpayer's compliance with the Program's Statutory Thresholds.

J. In issuing a Pre-Approval Letter, the Authority has the discretion to reserve credits for a taxpayer fewer in number than the number of jobs anticipated for creation by the taxpayer and enumerated in the

[6] Rules governing the potential refund of processing fees paid by a taxpayer are set forth in Rules Section 9.

taxpayer's Pre-Approval Request. For example, the Authority may reserve a smaller number of credits if the Authority determines that the number of anticipated jobs is excessive given the operating history and resources of the taxpayer. The Authority may also reserve credits for a taxpayer fewer in number than enumerated in the taxpayer's Request for Pre-Approval if the Calendar Year Cap precludes a complete allocation of all requested credits (i.e., if the number of credits enumerated in the taxpayer's Request for Pre-Approval exceeds the number of credits remaining through operation of the Calendar Year Cap).

K. If the Authority denies a Request for Pre-Approval, the taxpayer may appeal the decision within 30 days by submitting a timely written request for a hearing or a notice of appeal with the Chief Operating Officer (COO) of the Authority (or delegate) pursuant to A.R.S. § 41-1092 *et seq*. If the appeal is successful, the number of credits awarded to the taxpayer shall be left to the discretion of the COO (or delegate). The total could reflect the amount enumerated in the Application, the amount left in the current Calendar Year Cap, or some lesser amount. The denial of a Request for Pre-Approval prohibits the taxpayer from receiving tax credits under the Program (or the specific number of credits sought) unless the appeal is successful.

L. Any Request for Pre-Approval (as well as any other document submitted to the Authority in connection with the Program) must contain a certification by an officer of the taxpayer under penalty of perjury that the information contained therein is true and correct according to the best belief and knowledge of the officer after a reasonable investigation of the facts.

M. If a Request for Pre-Approval or other document contains information that is determined to be materially false, the taxpayer is ineligible for credits and, if applicable, is subject to recovery of the amount of tax credits allowed in a preceding tax year based on the false information, plus penalties and interest.

Section 5. Actions Following Pre-Approval: Satisfying the Program's Statutory Thresholds Governing Capital Investment and Job Creation

I. General

A. A taxpayer must satisfy the Statutory Thresholds at one Location within a 12-month period (a period of 365 or 366 consecutive days, as the case may be) ending not later than the close of the calendar year first following the calendar year in which the Pre-Approval Letter is issued. The 12-month period within which the Statutory Thresholds are satisfied can coincide with a taxpayer's taxable year or can "straddle" two taxable years. In the latter case, first-year credits may be claimed either in the taxable year in which the Statutory Thresholds are met or the taxable year in which the 12-month period terminates. The taxable year within which both Statutory Thresholds are met is the first taxable year in which tax credits can be claimed, but the taxpayer may opt to claim its first tax credits in the taxable year in which the 12-month eligibility period terminates. Thus, when the 12-month period straddles a taxpayer's taxable year, the initial first-year tax credits claimed by a taxpayer may reflect job creation that exceeds 12 calendar months. As a result, when taking into consideration additional first-year tax credits which may be claimed by a taxpayer in its two succeeding taxable years, job creation generating first-year credits may exceed three years or 36 months. *See the Example in Appendix A.*

B. The Authority utilizes the most recent Occupational Employment Statistics (OES) data issued by the Arizona Department of Administration https://laborstats.az.gov/ to determine the population numbers of a city, town or county and, hence, in determining the relevant Statutory Thresholds in the case of a Location in a Metro Area or Rural Area.

C. A taxpayer's actual Job Creation and Capital Investment work together in a tiered framework for determining the applicable Statutory Thresholds. They are as follows:
- *In a Metro Area:*
  - Capital Investment of at least $5 million and create at least 25 net new QEPs that pay compensation at least equal to 100% of the County Median Wage, or
  - Capital Investment of at least $2.5 million and create at least 25 net new QEPs that pay compensation at least equal to 125% of the County Median Wage, or
  - Capital Investment of at least $1 million and create at least 25 net new QEPs that pay compensation at least equal to 150% of the County Median Wage, or

- Capital Investment of at least $500,000 and create at least 25 net new QEPs that pay compensation at least equal to 200% of the County Median Wage.
- *In a Rural Area:*
  - Capital Investment of at least $1 million and create at least 5 QEPs that pay compensation at least equal to 100% of the County Median Wage, or
  - Capital Investment of at least $500,000 and create at least 5 QEPs that pay compensation at least equal to 125% of the County Median Wage, or
  - Capital Investment of at least $100,000 and create at least 5 QEPs that pay compensation at least equal to 150% of the County Median Wage.

For reference purposes, this information is summarized on the following table:

Minimum Capital Investment	Minimum Number of Net New Jobs (QEP's) Added	Percent of County Median Wage
For Metro Locations:		
$5,000,000	25	100%
$2,500,000	25	125%
$1,000,000	25	150%
$500,000	25	200%
For Rural Locations:		
$1,000,000	5	100%
$500,000	5	125%
$100,000	5	150%

II. <u>Capital Investment</u>

A. "Capital Investment," one of the two components of the Statutory Thresholds, means an expenditure to acquire, lease or improve property used in operating a business, including land, buildings, machinery, equipment and fixtures. Accordingly, general operating expenses, including but not limited to employee payroll expenses as well as employee recruiting expenses, do not constitute Capital Investment. Further, an expenditure to acquire a "going concern" does not constitute Capital Investment.

B. Capital Investment must occur in the name of the taxpayer in order to be counted toward the requisite investment threshold.

   Any expenditure made before or after the relevant 12-month eligibility period is ignored in determining whether a taxpayer has satisfied the Capital Investment requirement. Accordingly, whereas job creation over a three-year period may be relevant in terms of the number of first-year credits that may be claimed by a taxpayer (as long as at least 25 QEPs in a Metro Area or 5 QEPs in a Rural Area, are created in the relevant 12-month eligibility period), the 12-month eligibility period is the exclusive period in which a taxpayer's Capital Investment is relevant.

C. Lease payments (including pre-paid lease payments) generally qualify as Capital Investment if actually made during the relevant 12-month period. However, lease payments made within the 12-month period that relate to *future* leasehold periods are treated as Capital Investment only if the amount is nonrefundable.

D. Services constitute a Capital Investment in the amount paid for the service if: (i) the specific service is in furtherance of acquiring, leasing, or improving property used in operating a business, including land, buildings, machinery, equipment and fixtures; provided, however, the specific service is not in furtherance of the actual operation of the business; (ii) the specific service is fully performed for the taxpayer within the relevant 12-month period and (iii) payment is made by the taxpayer in accordance with the service-provider's payment instructions, even if actual payment by the taxpayer occurs after the 12-month period. Conversely, services performed for the taxpayer *before* the 12-month period but

paid for by the taxpayer during the 12-month period (whether pursuant to the service provider's instructions or not) do not qualify as Capital Investment.

E. Purchases of property (including equipment) constitute Capital Investment in the amount paid for the item of property if: (i) possession of the property is acquired by the taxpayer within the relevant 12-month period and (ii) payment is made by the taxpayer during the 12-month period. Additionally, purchases of property constitute a Capital Investment in the amount paid for the item if: (i) the underlying contract for purchase of the property between the taxpayer and the vendor of the property is entered into within the 12-month period, (ii) the contract obligates the taxpayer to make full payment in all circumstances and (iii) possession of the property is acquired by the taxpayer within the relevant 12-month period. In this latter case, actual payment for the property (in whole or in part) by the taxpayer may occur after the relevant 12- month period.

F. Tenant improvements constructed by or on behalf of a taxpayer constitute Capital Investment if: (i) the improvements are constructed within the relevant 12-month period and (ii) either payment is made by the taxpayer during the 12-month period or the underlying construction contract is entered into during the 12-month period and the contract obligates the taxpayer to make full payment in all circumstances. If the cost of tenant improvements is added to conventional lease payments, then, consistent with the general discussion of lease payments in *Subsection C* above, the tenant improvements constitute Capital Investment only to the extent of the added payments actually made by the taxpayer within the relevant 12-month period.

G. Other real property improvements constructed by or on behalf of a taxpayer constitute Capital Investment in the amount paid therefor if: (i) either payment is made by the taxpayer within the relevant 12-month period or the underlying construction contract is entered into by the taxpayer during the 12-month period and obligates the taxpayer to make full payment in all circumstances and (ii) ownership and possession of the improvements is acquired by the taxpayer within the 12-month period or not later than 30 days following completion of the construction.

H. Only expenditures incurred by a taxpayer related to the Designated Location specified in the Pre-Approval Letter are treated as Capital Investment. Expenditures made at non-contiguous Locations cannot be aggregated for purposes of meeting the minimum Capital Investment threshold. However, if a taxpayer has more than one Location to be certified as a Designated Location and demonstrates Program eligibility for each Designated Location in multiple Requests for Pre-Approval, the Authority shall allocate credits according to the Priority Placement Numbers associated with the Applications for each Designated Location as set forth herein. In such case, the taxpayer must submit a separate Request for Pre-Approval and Application for each Designated Location at which it intends to claim credits. *See Rules Section 4* and *Rules Section 6*.

I. Prior to issuing an Allocation Letter (described in *Rules Section 6*), the Authority may seek to verify that all or a portion of the expenditures comply with the Capital Investment requirement and may request documentation of some or all of the expenses as it determines in its discretion. In any such case, acceptable documentation of Capital Investment includes copies of one or more paid invoices along with the associated cancelled checks, real estate settlement sheets, county affidavits of property value, business property statements, lease agreements, or IRS Forms 4562 and all supporting schedules that identify, at a minimum, the item(s) of property acquired, the date acquired, the location of the property and the property's cost. The taxpayer must also maintain records of expenditures in order to certify costs to the Authority and Revenue or Insurance, as the case may be.

III. *Qualified Employment Positions (QEPs)*

A. The term QEP, the second component of the Statutory Thresholds, refers to a net new full- time, permanent position that is originally created at a Designated Location or a Temporary Location of a taxpayer for which the employee is paid the required wage associated with the Taxpayers capital investment, as set forth above.

In addition to the required wage, an employment position constitutes a QEP if:

ARIZONA
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i. The position is Permanent and requires a minimum of 1,750 hours per year of full-time employment over the course of a full year. If an employee does not work 1,750 hours because of the date of hire or due to a short taxable year, the position may still qualify as a QEP assuming all other eligibility requirements are met.

ii. For any year in which the taxpayer is claiming first year credits, the position's job duties are performed primarily at the Designated Location. Thus, more than 50 percent of the employee's job duties (measured by the number of hours) must be performed at the Designated Location. In a year in which no first-year credits are claimed, the QEP must primarily perform its job duties at any Location of the business in the State.

iii. The position is filled by an employee residing in Arizona who is legally authorized to work in the U.S.

iv. Benefits associated with the position include health insurance coverage for the employee for which the employer offers to pay at least 65 percent of the premium or membership cost. For this purpose, the position is a QEP even if the employee declines the coverage offered by the employer. In calculating the 65 percent cost threshold, the taxpayer *must* include health/medical insurance but *may* also include other benefits including:

    a. Dental insurance,
    b. Vision insurance,
    c. Short-term disability insurance, and
    d. Long-term disability insurance.

If an employee is hired to fill an employment position but there is a "waiting period" before the employee's health insurance coverage becomes effective, the employment position is considered filled on the date of the employee's hiring and, hence, the position constitutes a QEP as of the date of hire provided that: (i) the health coverage waiting period does not exceed 90 days and (ii) the coverage becomes effective upon the expiration of such waiting period. If an employee's health coverage "waiting period" exceeds 90 days, the employee is not considered hired and the employment position is not considered filled until expiration of the coverage waiting period.

If an employer is self-insured for employee health costs, the employer must demonstrate its obligation to pay at least 65 percent of the plan administration costs, or some other predetermined *fixed* costs which are similar to premiums in the context of a conventional health insurance plan.

For example, an employer maintaining a self-insured health plan might establish a "fixed" health insurance "premium" for its employees in the same manner that a traditional insurance company establishes a premium for an employer adopting an insured health plan for its employees. Claims from prior years would determine the "premium" amount based on an expected claims rate per employee. In such case, the employer would be expected to pay at least 65 percent of this "premium" in all circumstances. The employer would need to bear any additional costs in the event the actual claims were more than the anticipated claims.

Alternatively, an employer might hire a plan administrator to manage its self-insurance program. In this case, there would likely be a monthly administration fee per employee charged by the plan administrator, similar to a membership fee or premium in the context of a conventional insured plan. The employer would need to pay at least 65 percent of any such fees in order for the employment positions to qualify as QEPs. The employer would also then need to pay all of the actual medical costs as incurred.

In all cases involving self-insured plans, actual medical costs paid by the taxpayer-employer are excluded in determining whether the 65 percent payment obligation is satisfied. The rationale for such exclusion is that to do otherwise would confer an advantage on a self-insured plan as compared with a conventional insured group health plan maintained by an employer. Thus, for example, in the case of a conventional group health insurance policy, the employer's costs are fixed "up front" and are identifiable at the time the QEP is created. An actual non-contingent financial obligation on the part of the employer, payable on a per-employee basis, is thereby established at that time. In contrast, no such fixed costs and identifiable obligation would be created in the self-insured context if the taxpayer-employer employed a new employee and could

simply include actual medical costs in the 65 percent computation if and as incurred.

Below is an example of a form that could be used to evidence the allocation of health insurance costs in a situation in which an employer that maintained a self-insured health plan utilized a fixed "premium" cost to demonstrate compliance with the 65 percent rule.

EXAMPLE HEALTH INSURANCE COST PAID BY SELF-INSURED EMPLOYERS

Fee Allocation	Coverage Type	Coverage Period 1/11 to 12/11	Coverage Period 1/12 to 12/12	Coverage Period 1/13 to 12/13
Monthly premium charged to employee	Single Family	46.00 120.00	63.50 125.00	55.00 130.00
Total monthly premium charged by plan	Single Family	196.00 462.00	182.40 433.95	190.85 454.50
Percent charged to employee	Single Family	23.5% 26.0%	34.8% 28.8%	28.8% 28.6%

v. The position must be paid at least the requisite percentage of the median county wage determined at Pre-Approval based on the capital investment expended by the taxpayer. Median county wages are computed annually by the Authority. The date of hire or of relocation from out of state of a QEP determines the annual median county wage to be used in calculating the required wage to be paid by the taxpayer in all three years of employment in order to generate a first-year tax credit as well as continuing tax credits.
The Authority will annually release on its website (www.azcommerce.com) the median county wage to be used in calculating the required wage that must be satisfied or exceeded. When released, the annual wage is effective for tax years beginning from and after January 1st through December 31st of such year.

When calculating whether wages satisfy the required wage, the taxpayer may include the following items:

1. Base Rate
2. Commissions
3. Tips
4. Deadheading Pay
5. Guaranteed Pay
6. Hazard Pay
7. Incentive Pay
8. Longevity Pay
9. Piece Rate
10. Portal-to-Portal Rate
11. Production Bonus
12. Cost-of-Living Allowance

Taxpayers are prohibited from including the following items when calculating whether wages satisfy the required wage threshold:

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1. Attendance Bonus
2. Back Pay
3. Draw
4. Holiday Premium Pay
5. Jury Duty Pay
6. Lodging Payments
7. Meal Payments
8. Merchandise Discounts
9. Overtime Pay
10. Perquisites
11. Profit Sharing Payment
12. Relocation Allowance
13. Tuition Repayments
14. Nonproduction Bonus
15. Severance Pay
16. Shift Differential
17. Stock Bonuses
18. Tool Allowance
19. Holiday Bonus
20. Weekend Pay
21. Uniform Allowance
22. On-call Pay

Definitions of the foregoing wage terms are posted at the following website maintained by the U.S Bureau of Labor Statistics: http://www.bls.gov/ncs/ocs/sp/ncbl0062.pdf

vi. In claiming a first-year credit for a net new QEP, the position must be filled by an employee who has not been employed by the taxpayer within 12 months before the date of hire, unless the employee is relocating to Arizona from another state.

vii. In claiming a first-year credit for a net new QEP, the position must be filled by an employee who, beginning with the date of hire, is employed for at least 90 days during the first taxable year of job creation. For this purpose, the first taxable year includes the 12-month Capital Investment period and any remaining months in the taxable year in which the 12-month period ends. A new position filled during the last 90 days of a taxable year is considered a new QEP in the *succeeding* taxable year.

Example: Taxpayer, a calendar-year taxpayer, satisfies the Statutory Thresholds during the 12-month period beginning July 1, 2016 and ending June 30, 2017. Specifically, Taxpayer creates 30 QEPs during such 12- month period. Taxpayer also creates 10 additional QEPs during the period from July 1, 2017 through the close of Taxpayer's taxable year on December 31, 2017. However, only six of these additional QEPs were filled by October 2, 2017; the remaining four QEPs were filled for less than 90 days during calendar year 2017. Taxpayer's 2017 taxable year is the first taxable year in which first-year credits may be claimed by Taxpayer.
Taxpayer may claim a total of 36 first-year credits in 2017 (corresponding to the 30 QEPs created in the 12-month period ending June 30, 2017 as well as the six additional QEPs created before the close of Taxpayer's 2017 taxable year and for which the positions were filled for at least 90 days).

B. If an employee works at a taxpayer's *temporary* worksite in Arizona during the period that the taxpayer's Designated Location is under construction, the employment position qualifies as a QEP if all of the following occur:

i. The employee hired to fill the position is hired after the taxpayer commences its Capital Investment at the Designated Location.

ii. The employee is hired to work at the Designated Location after completion of construction.

iii. The payroll for all employees destined for the Designated Location is segregated from the payroll of other employees.

iv. The employee is moved to the Designated Location within 30 days after its completion.

C. If an existing business is sold or reorganized, the employees of the original business are not considered new employees of a "new" business and, therefore, the employment positions would not constitute QEPs eligible for first-year credits for the purchaser of the business or owner of the reorganized business. However, the purchaser may claim first year credits for QEPs created and preapproved for the benefit of the taxpayer after the transaction was complete. In addition, the purchaser of a taxpayer that has already qualified for first or second year credits may claim the corresponding second or third year credits if all of eligibility requirements are met.

D. A taxpayer is authorized to claim first-year credits for a taxable year to the extent of the number of Net New QEPs in such year. The number of Net New QEPs for any taxable year is the *lesser of*: (i) the total number of QEPs created by the taxpayer at the Designated Location during the taxable year or (ii) the difference between (x) the average number of full-time employees of the taxpayer in the State in the current taxable year and (y) the average number of full-time employees of the taxpayer in the State during the immediately preceding taxable year. A unitary (combined) group or a consolidated (affiliated) group is considered to be a single taxpayer and, therefore, the computation of Net New QEPs is based on the total employment of all members of such group at the Designated Location and in the State, respectively.

E. The employment position must remain filled for the full taxable year during both the second and third tax years of continuous employment in order for a taxpayer to claim continuing credits associated with any first-year credit. A taxpayer may substitute a successor employee for another employee who meets the same Statutory Thresholds as the original employee provided that the QEP was not vacant for more than ninety days from the date the QEP was originally filled to the end of the current tax year.

F. QEPs created at non-contiguous Locations cannot be aggregated for purposes of determining qualification for first-year credits. However, in years in which no first-year credits are claimed, QEPs may be counted even if transferred from the Designated Location to another Location, so long as all other eligibility requirements are met.

G. A taxpayer must maintain records of employment in order to certify employment numbers to the Authority and Revenue or Insurance (as applicable). The Authority may require additional documentation, conduct inspections or audits, as necessary, to verify compliance with the QEP rules.

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

A. A taxpayer cannot claim Program credits unless the taxpayer submits a timely Application and receives an Allocation Letter from the Authority. The Application (and related Allocation Letter process) in the context of claiming first-year credits is designed to ensure that a taxpayer has satisfied all Program requirements (including satisfaction of the Statutory Thresholds set forth in the Pre-Approval Letter not later than the close of the calendar year first following the calendar year in which the Authority issued its Pre-Approval Letter) and that the taxpayer is, therefore, eligible to claim the tax credits. Similarly, for second-year and third-year tax credits in subsequent years associated with those first-year credits (as well as any carry forward credits), the taxpayer must report and certify in a timely manner to the Authority that it continues to meet the requirements of the Program set forth in the Pre-Approval letter by timely submittal of additional Applications.

B. For income tax credits, an Application must be filed with the Authority by the earlier of: (i) six months after the end of the taxpayer's taxable year in which the QEPs were created or (ii) the date the tax return is filed for the taxable year in which the QEPs were created.

C. For premium tax credits, an Application must be filed with the Authority on or by March 1st of the year after the calendar year in which the QEPs were created.

D. Failure to timely submit an Application for income tax credits or premium tax credits, as the case may be, not only disqualifies the taxpayer from claiming a first-year credit, but disqualifies the taxpayer from claiming continuing credits associated with the first-year credits. If the failure to submit a timely Application relates to second-year tax credits, the taxpayer may not claim those second-year credits, associated third-year credits, and related carry forward credits. If the failure to submit a timely Application relates to third-year tax credits, the taxpayer may not claim those third-year credits and related carry forward credits.

E. Applications must be submitted electronically by taxpayers through the EASY system.

F. During its review of an Application, the Authority may request additional information, conduct a site visit or otherwise discuss the Application with the taxpayer. If a taxpayer fails to provide additional information within 14 calendar days after requested by the Authority (or up to 28 calendar days if

the taxpayer seeks and receives a compliance extension within the initial 14-day period or longer upon evidence of undue burden or extreme hardship on the part of the taxpayer - extreme hardship or undue burden experienced by a third-party consultant or other representative of taxpayer shall not constitute adequate basis for an extension), the Application will be considered withdrawn. A taxpayer may receive additional extensions for good cause upon a showing of extreme hardship or undue burden being experienced by the taxpayer.

G. The Authority will attempt to make an eligibility determination with regard to an Application within 45 days after the date of receipt of a Substantially Complete Application.

H. If the Authority rejects an Application, the taxpayer may appeal the decision within 30 days by timely submitting a written request for a hearing or a notice of appeal with the Chief Operating Officer of the Authority (or designee) pursuant to A.R.S. § 41-1092 *et seq*. The rejection prohibits a taxpayer from receiving tax credits under the Program unless the appeal is successful.

I. If the Authority approves the Application, it will issue an Allocation Letter and transmit a copy to Revenue or Insurance, as the case may be. The Allocation Letter will include the name, Employer Identification Number and Designated Location of the taxpayer's business, the number of Net New QEPs, the minimum threshold of QEP creation/Capital Investment required for the credit (*see* Section 5(I)(C) above), the dollar amount of tax credits which the taxpayer is eligible to claim, the tax years the credit is available, and, for Insurers, their National Association of Insurance Commissioners (NAIC) number.

J. The aggregate number of first-year credits specified in an Allocation Letter issued to a taxpayer may be less than the number of credits reflected in a Pre-Approval Letter, including, for example, if actual job creation was less than anticipated. However, the number of first-year credits allocated in an Allocation Letter (or in a series of Allocation Letters referencing the same Priority Placement Number) issued to a taxpayer cannot exceed the number of credits reflected in a Pre-Approval Letter (i.e., the number of first-year positions set forth in a Pre-Approval Letter represents the "cap" for the number of first-year credits that may be claimed by a taxpayer unless the taxpayer again satisfies the Statutory Thresholds and receives an additional Pre-Approval Letter after submission of an additional Request for Pre-Approval).

Section 7. Claiming Tax Credits

A. Eligible taxpayers may participate in the Program for multiple tax years (and thereby earn first-year credits in up to three distinct tax years) after meeting the Statutory Thresholds just one time. More particularly, a taxpayer that satisfies the Statutory Thresholds during a 12-month period ending on or before the close of the calendar year first following the taxable year in which the Authority issued its Pre-Approval Letter can claim up to three consecutive taxable years of first-year credits, assuming that job creation extends beyond the taxable year within which the Statutory Thresholds are satisfied and provided that the total number of jobs for which first-year credits are sought does not exceed the number of credits reserved for the taxpayer as set forth in the taxpayer's Pre-Approval Letter.[7] When taking into consideration second-year and third-year credits, a taxpayer may, therefore, claim credits in up to five distinct taxable years. See the example in Appendix A.

B. In order to claim *income* tax credits, an eligible taxpayer[8] must submit Arizona Form 345 with the taxpayer's original state income tax return to Revenue on or before the due date of the tax return, (including extensions) for the year for which the credits are claimed. The taxpayer must also attach a copy of the Allocation Letter from the Authority to the Arizona income tax return. <u>A taxpayer cannot claim credits (whether first-year credits or continuing credits) on an amended tax return</u>. Instead, Program credits must be claimed on a taxpayer's <u>*original*</u> tax return for all relevant years. To download Revenue forms and instructions, visit http://www.azdor.gov.

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[7] The number of first-year credits allocated to a taxpayer in a Pre-Approval Letter represents the "cap" for the number of first-year credits that may be claimed by the taxpayer unless the taxpayer again receives an additional Pre-Approval Letter and again satisfies the Statutory Thresholds. Further, see Rules Section 4.

[8] A taxpayer is eligible to claim credits if the taxpayer has satisfied all the requirements set forth in Rules Section 2.

C. In order to claim *premium* tax credits, an eligible taxpayer must, on or before March 1st following the calendar year for which credits are claimed, submit to Insurance a 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 the Authority. In order to timely submit the report to Insurance, a taxpayer should not wait to receive the Authority's Allocation Letter before claiming the credit with Insurance. However, a taxpayer must submit the Allocation Letter to Insurance within 30 days of the date of the Allocation Letter. If the credit amount identified on the Allocation Letter is less than the credit which the taxpayer claimed on the Form E-TAX, the taxpayer must submit to Insurance, within 30 days of the date of the Allocation Letter, an amended Form E-TAX together with a copy of the Allocation Letter and payment of the additional tax owed. A taxpayer is subject to penalty and interest for any premium tax owed that is unpaid by March 1st. To download Insurance forms and instructions, visit https://insurance.az.gov/

Section 8. Management of the Program's Calendar Year Cap

A. The Program's 10,000 credit Calendar Year Cap is generally allocated on a first-come, first-served basis according to the date and time of receipt of a Request for Pre-Approval.

B. The Authority accepts Requests for Pre-Approval from taxpayers until the Calendar Year Cap for that year has been met, which the Authority will provide general notification regarding on its website. The Authority may also accept Requests for Pre-Approval that may include credits for a calendar year earlier than the first day of the calendar year in which the credits are to be applied.

C. The Authority shall not approve greater than 10,000 credits for any Calendar Year Cap.

D. The Authority can allocate tax credits from a Calendar Year Cap as long as the Request for Pre-Approval is submitted to the Authority during that calendar year; unused tax credits do not roll forward into the next year's cap.

E. If a taxpayer's Request for Pre-Approval is approved, all associated first-year tax credits (anticipated over a three-year period) are reserved for the taxpayer so long as all eligibility requirements are met and the applicable processing fee is paid. If sufficient Calendar Year Cap is unavailable to satisfy the amount of tax credits enumerated on the Request for Pre-Approval, the Authority may apply credits from the following Calendar Year Cap to the Request for Pre-Approval; provided, however, that in any case, the taxpayer will receive any remaining Calendar Year Cap.[9].

F. Any credits returned to the Authority during the same calendar year in which they were originally allocated may be re-allocated to other eligible taxpayers according to the next Priority Placement Number. Credits may be returned to the Authority if, for example, a taxpayer for whom credits were reserved elects in the same calendar year not to pursue the originally intended investment and job creation or if the taxpayer determines in the same calendar year that it is unable to satisfy the Statutory Thresholds before the prescribed deadline.

Section 9. Miscellaneous Rules

A. A taxpayer who claims a credit under the Military Reuse Zone program, the Qualified Facilities Tax Credit program, or the Renewable Energy Tax Incentive Program cannot claim a credit under the Program for the same employment positions. A.R.S. §§ 20-224.03, 20-224.04, 43-1074, 43-1079,

[9] As a practical matter, only one taxpayer per year will be eligible to use credits from two Calendar Year Caps. The use of the following Calendar Year's Cap by a taxpayer who uses all of the current Calendar Year Cap ensures that the full Calendar Year Cap is utilized each year without requiring a taxpayer to forego any first-year tax credits. Once a single taxpayer uses any remaining Calendar Year Cap, no other Requests for Pre-Approval will be accepted until the following Calendar Year, regardless of when the Calendar Year Cap is exhausted. A taxpayer's use of the following Calendar Year's Cap will result in the following Calendar Year Cap being reduced by the amount of first year credits required to provide such taxpayer its full requested benefit as reflected in the applicable Request for Pre-Approval.

43-1083.01, 43-1083.03, 43-1164.01, 43-1161, 43-1164.04, 43-1167. There is no such restriction associated with capital investment.

B. If a C corporation elects to be taxed as an S corporation or the S Corporation status of the corporation terminates, the change in the corporation's filing status does not affect the ability to claim continuing credits. If a C corporation converts to S corporation status, unused credits (resulting from an entity tax liability smaller than the allowed credit) can be carried forward to offset any S corporation liability (at the corporate level) but cannot be distributed to or otherwise used by the shareholders. If an S corporation converts to C corporation status, any unused credits of the S corporation that were retained at the corporate level (whether because of the operation of the shareholder basis limitation of section 1366(d) of the Internal Revenue Code or otherwise) can be used by the C corporation; however, any unused credits that were initially allocated to or passed through to the shareholders cannot be used by the C corporation. Taxpayers filing on a combined or consolidated basis are considered to be a single taxpayer for *all* purposes of the Program.

C. A short tax year resulting from a change in a taxpayer's accounting period is considered a "taxable" year for all purposes of the Program. Accordingly, for example, a taxpayer may have fewer than 24 months (the duration of two complete taxpayer years determined without intervention of a short taxable year) to create additional QEPs and claim additional credits following the close of the taxable year in which the taxpayer satisfies the Statutory Thresholds.[10]

D. If equity interests in an existing business are sold, the purchaser(s) can claim continuing credits (second-year and third-year credits relating to a first-year credit claimed by the seller) as long as the underlying QEPs continue to meet all statutory requirements. If an existing business is sold or reorganized, the purchaser or owner of the reorganized business is not eligible to claim *carry-forward* credits from the "old" business.

E. All or a portion of the processing fee paid by a taxpayer (*See Rules Section 4*) may be refunded in either of two situations as discussed in Paragraphs (F) and (G) below.

F. First, if the Authority receives written notice from a taxpayer stating that the taxpayer is or was unable to satisfy the Statutory Thresholds by the close of the calendar year first following the calendar year in which the Pre-Approval Letter was issued (a Non-Fulfillment Notice), the Authority will endeavor, within 90 days thereafter, to provide a refund of all or a portion of the processing fee that was paid by the taxpayer. If the Non-Fulfillment Notice is received by the Authority at least 60 days before the close of the same calendar year in which the Pre-Approval Letter was issued, the Authority will refund 100 percent of the processing fee that was initially paid by the taxpayer. If a Non-Fulfillment Notice is received after the date 60 days preceding the close of the same calendar year in which the Pre-Approval Letter is issued, but before the third anniversary of the date of the Pre- Approval Letter, the Authority will refund 75 percent of the taxpayer's processing fee. The rationale for imposition of a 25 percent processing fee *surcharge* (resulting from the refund of only 75 percent of the one percent processing fee initially payable by a taxpayer), and the waiver thereof only in the case of a timely Non-Fulfillment Notice (i.e., a Non-Fulfillment Notice received at least 60 days before the close of the same calendar year in which the Pre-Approval Letter was issued), is to encourage taxpayers who are unable to satisfy the Statutory Thresholds governing the claiming of Program credits in a timely manner to notify the Authority in sufficient time so as to permit the Authority to *re-allocate* otherwise potentially unused Program credits among other eligible taxpayers and to thereby defer exhaustion of the then Calendar Year Cap. A Non-Fulfillment Notice must be received by the Authority on or before the three-year anniversary of issuance of the Pre-Approval Letter in order for a refund to be payable. If a refund is issued in accordance with this Paragraph G, the taxpayer's Pre-Approval Letter will be considered "void."

G. Second, in recognition of the fact that a taxpayer may not ultimately claim all of the first- year Program credits that were reserved for the taxpayer in the taxpayer's Pre-Approval Letter, the

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[10] The three-taxable-year-period term during which a taxpayer may generate first-year year credits is described in Rules Section 7.

Authority will, in the case of a taxpayer who satisfies the Statutory Thresholds, refund a portion of the processing fee that was initially paid by the taxpayer. Specifically, the Authority will refund 75 percent of the portion of the previously paid processing fee corresponding to the number of the taxpayer's unused first-year Program credits. For this purpose, Program credits will not be deemed "unused" until the due date of the taxpayer's tax return for the third taxable year in which the Taxpayer is last eligible to claim first-year Program credits. Accordingly, if the Authority receives a written request for refund by a taxpayer pertaining to unused Program credits (a Credit Adjustment Notice) on or after the due date of the taxpayer's tax return for the third taxable year in which the taxpayer is last eligible to claim first-year credits under the Program, but on or before the deadline imposed on payment of such refunds described below, the Authority will endeavor, within 90 days thereafter, to refund to the taxpayer an amount equal to the product of (i) $67.50 (75 percent of the $90 per credit processing fee) multiplied by (ii) the excess of (a) the number of credits reserved for the taxpayer in the taxpayer's Pre-Approval Letter over (b) the number of first-year credits actually claimed by the taxpayer. The rationale for imposition of a 25 percent processing fee *surcharge* (resulting from the refund of only 75 percent of the one percent processing fee per unused tax credit), is to discourage taxpayers from overestimating the projected number of net new jobs and thereby potentially contributing to exhaustion of the then Calendar Year Cap resulting in the inability of the Authority to offer credits for actual job creation by other eligible taxpayers. A Credit Adjustment Notice must be received by the Authority on or before the six-year anniversary of issuance of the Pre- Approval Letter in order for a refund to be payable. If a refund is issued in accordance with this Paragraph H, the taxpayer in all cases may not claim first-year credits associated with the Pre-Approval Letter in excess of (a) the number of credits reserved for the taxpayer in the taxpayer's Pre-Approval Letter over (b) the number of unused credits taken into consideration in computing the amount of refund hereunder.

Section 10. Definitions

The following terms, which are used through these Rules, have the following meanings:

"Authority" means the Arizona Commerce Authority.

"Allocation Letter" means the written correspondence from the Authority indicating the Taxpayer is eligible to claim tax credits under A.R.S. § 41-1525. "Application" means as defined in *Rules Section 1.*

"Business Day" means a day other than Saturday, Sunday, or a day the State of Arizona observes a legal holiday or a day on which the Authority is authorized or obligated by law or executive order to be closed.

"Capital Investment" means as defined at *Rules Section 5*.

"Calendar Year Cap" means the limitation prescribed by A.R.S. § 41-1525(D) on the number of Program tax credits allocable in a specific calendar year.

"Commerce Website" means www.azcommerce.com.

"Credit Adjustment Notice" means as defined in *Rules Section 9.*

"Designated Location" means the Location at which the Statutory Thresholds required under A.R.S. § 41-1525(B) will be or have been met.

"EASY" means as defined at Rules Section 4.

"Insurance" means the Arizona Department of Insurance.

"Location" means a single parcel or contiguous parcels of owned or leased land in Arizona, the structures and personal property contained on the land, or any part of the structures occupied by the owner thereof. Parcels that are separated only by a public thoroughfare or right-of-way are considered to be contiguous but parcels that are in locations respectively described by A.R.S. §§ 41-1525(B)(1) and (B)(2) are not considered to be contiguous.

"Metro Area" means an Arizona county with a population of 800,000 or more (Maricopa and Pima Counties), excluding towns or municipalities within those counties with a population of less than 50,000.

"Net New QEPs" means as defined at Rules Section 5.

"Non-Fulfillment Notice" means as defined in Rules Section 9.

"Permanent" means, for an employment position, a position that is not established for a specified or limited period of time.

"Pre-Approval Letter" means the written correspondence from the Authority indicating tax credits have been reserved for the taxpayer.

"Priority Placement Number" means the order in which the Requests for Pre-Approval are received.

"Program" means the Quality Jobs Tax Credit Program established by A.R.S. § 41-1525.

"QEP" means a qualified employment position that meets the qualifications set forth in A.R.S. § 41-1525(L)(4) and Rules Section 5.

"Request for Pre-Approval" means a taxpayer's request for a reservation of tax credits within the Calendar Year Cap.

"Revenue" means the Arizona Department of Revenue.

"Rules" means these Program Rules & Guidelines for the Quality Jobs Tax Credit Program.

"Rural Area" means any area of the state that is not a Metro Area.

"Statutory Thresholds" means the requirements prescribed by A.R.S. § 41-1525(B) pertaining to the minimum Capital Investment and minimum number of QEPs which a taxpayer must satisfy at a single location within a 12-month period ending on or before the close of the calendar year first following the calendar year in which the Authority issued its Pre- Approval Letter in order to claim Program tax credits.

"Substantially Complete" means, for a Request for Pre-Approval or Application, that all matters are fully addressed by the taxpayer and that any and all ancillary documents required by the Authority are attached or can be supplied within 14 calendar days after receipt of notification by the Authority of any deficiencies (or within an additional 14 calendar day period if requested by the taxpayer and granted by the Program manager or longer upon evidence of undue burden or extreme hardship on the part of the taxpayer - extreme hardship or undue burden experienced by a third-party consultant or other representative of taxpayer shall not constitute adequate basis for an extension).

"Taxpayer" or "taxpayer" means an individual, a sole proprietorship, a corporation, a limited liability company, a partnership, or any other entity taxable for U.S. federal income tax purposes as either an "association" or a partnership. For purposes of A.R.S. § 20-224.03 the term "taxpayer" also includes

an individual insurer.[11]

Quality Jobs Tax Credit Program c/o
Arizona Commerce Authority
118 N. 7th Ave., Suite 400,
Phoenix, AZ 85007

Questions regarding the Program can be directed to
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[11] For the sake of clarity, a trust will not generally qualify as a taxpayer.

Appendix A

The following example illustrates various principles established by these Rules, including the circumstances in which a taxpayer may claim Program credits in five distinct taxable years. The example also illustrates circumstances in which job creation generating first-year credits can extend beyond three years or 36 months.

Assume the following facts:

- A calendar-year taxpayer located in a Metro Area submits a Request for Pre-Approval on January 15, 2017 in connection with a proposed expansion project.
- The taxpayer anticipates making an aggregate $5.5 million Capital Investment and creating a total of 150 jobs over three years with each job meeting the eligibility requirements of the Program.
- Based thereon, the taxpayer applies for and receives a Pre-Approval Letter from the Authority on March 1, 2017 reserving 150 QEPs for first-year credits.
- The taxpayer commences its Capital Investment on July 1, 2017; by the close of calendar year 2017, the taxpayer's Capital Investment totals only $2 million.
- By June 30, 2018, the taxpayer's Capital Investment totals $5 million. Accordingly, within the 12-month period commencing July 1, 2017 and concluding June 30, 2018, the taxpayer's Capital Investment totals $5 million.
- During the same 12-month period ending June 30, 2018, the taxpayer creates 50 net new jobs that qualify as QEPs paying a wage between 100% and 125% of the County Median Wage.
- By the close of calendar year 2018, the taxpayer creates 20 additional Net New QEPs.[12] No additional Capital Investment is made by the taxpayer in 2018.
- In each of calendar years 2019 through 2021, the taxpayer creates 50, 30, 20 additional Net New QEPs respectively per year, resulting in 170 total Net New QEPs created by the taxpayer.
- The taxpayer makes $500,000 of additional Capital Investment in calendar year 2019 resulting in an aggregate Capital Investment of $5.5 million by the taxpayer.
- The taxpayer maintains all of the QEPs for at least three years.
- The taxpayer otherwise satisfies all additional Program requirements.

Under the facts of this example, the taxpayer is eligible to claim Program tax credits because the Program's Statutory Thresholds relating to applicable investment and job creation requirements (i.e., at least $5 million of Capital Expenditures and at least 25 QEPs in this case) were satisfied by the taxpayer within a 12-month period (the period from July 1, 2017 through June 30, 2018), which period concluded earlier than the close of the calendar year first following the calendar year in which the taxpayer's Pre-Approval Letter was issued (i.e., earlier than December 31, 2018).

The precise number of credits the taxpayer may claim annually is set forth in the chart below:

Tax Year	QEPs created	1st year credits	2nd year continuing credits	3rd year continuing credits
2017	0	0	0	0
2018	70	70	0	0
2019	50	50	70	0
2020	30	30	50	70
2021	20	0	30	50
2022	0	0	0	30
Total	170	150	150	150

[12] In order to claim a first-year credit for a new QEP, the position must be filled by an employee who is employed for at least 90 days in such year. This requirement is discussed in Rules Section 5. Accordingly, assume in this case, that the 20 additional employees were employed for at least 90 days by the close of the 2018 calendar year.

More particularly:

- No credits can be claimed for calendar year 2017 because the taxpayer had yet to satisfy the Statutory Thresholds and hence to make a Capital Investment of at least $5 million *and* create at least 25 net new jobs.
- First-year credits can be claimed commencing in calendar year 2018 because the taxpayer satisfied the Capital Investment and job creation requirements within the 12-month period that ended June 30, 2018 (which preceded the close of the calendar year first following the calendar year in which the taxpayer's Pre-Approval Letter was issued). In all, a total of 150 first-year credits can be claimed for the 2018, 2019, and 2020 calendar years, corresponding to the number of first-year credits reflected in the taxpayer's Pre-Approval Letter.
- A total of 70 first-year credits can be claimed for calendar year 2018; this number represents the sum of (i) the 50 QEPs created within the 12-month period ending June 30, 2018 as well as (ii) the 20 additional QEPs created by the close of the 2018 calendar year and during which employees were employed for at least 90 days before the close of the 2018 calendar year (a period actually encompassing 18 months in this example).
- A total of 50 first-year credits can be claimed for calendar year 2019 corresponding to the number of QEPs created by the taxpayer within the calendar year and during which employees were employed for at least 90 days before the close of the calendar year.
- A total of 30 first-year credits can be claimed for calendar year 2020 corresponding to the number of QEPs created by the taxpayer within the calendar year. (Accordingly, job creation generating aggregate first-year credits in this example included (i) the 18-month period from July 1, 2017 through December 31, 2018, (ii) all of calendar year 2019, and (iii) the first nine months of calendar year 2020, or in total some 39 months.)[13]
- The taxpayer's additional Capital Investment of $500,000 in 2019 has no impact on the number of first-year credits that can be claimed by the taxpayer because first-year credits claimed are solely a function of the number of QEPs created provided that the requisite Capital Investment threshold has been satisfied.
- The QEPs created in 2021 do not qualify for first-year credits for two reasons: (i) first, because a taxpayer may receive only *three* consecutive years of first-year credits unless the taxpayer again satisfies the requisite Capital Investment and job creation thresholds in a distinct 12-month period which did not occur under the facts of the example (i.e., the additional jobs were created in the fourth year without an additional $5 million Capital Investment by the taxpayer) and, (ii) second, because the Pre-Approval Letter reflected only 150 positions and a taxpayer is precluded from claiming credits in excess of the number specified in the Pre-Approval Letter.
- A total of 150 second-year and 150 third-year credits may be claimed because each QEP was maintained for at least three years according to the assumed facts. Thus, overall, the taxpayer in the example may claim credits in each of five distinct calendar years from 2018 through 2022 (first-year credits in calendar years 2018 through 2020 and second-year and third-year credits in calendar years 2019 through 2022).

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[13] Only the first nine months of calendar year 2020 are considered here because an employment position must be filled for at least 90 days in a year in order to generate a first-year credit.