

Arizona Commerce Authority COMMERCIAL/INDUSTRIAL SOLAR ENERGY TAX CREDIT PROGRAM

Program Guidelines¹

Section 1. Overview

The Commercial/Industrial Solar Energy Tax Credit Program (A.R.S. §41-1510.01) was established by the Arizona legislature in 2006 to stimulate the production and use of solar energy in commercial and industrial applications by subsidizing the initial cost of solar energy devices. As of September 21, 2006 the program is effective for tax years beginning from and after December 31, 2005 through December 31, 2018. The Commercial/Industrial Solar Energy Tax Credit Program provides an income tax credit for the installation of solar energy devices in Arizona business facilities. The tax credit is available to the business that installs the solar energy device in its facility or the third-party that finances the solar energy device.

A business seeking tax credits under this program must apply to the Arizona Commerce Authority (Commerce) through form “Application for Initial Certification of a Solar Energy Device.” If devices are installed in multiple buildings the business must submit a separate application for each building. If more than one device will be installed at a building, the business must submit a separate project page for each solar energy device. Commerce will issue initial certification to each eligible solar energy device and assign a unique identifying number.

The business must submit a “Completion Report for a Solar Energy Tax Credit Certificate” when each device is operational. A priority placement number will be assigned by Commerce to each completion report on the date of receipt and will determine the order in which tax credit allocations are made. If the review of the completion report is favorable, Commerce shall issue a credit certificate to the business and transmit the certification information to the Arizona Department of Revenue (Revenue). Once the business receives the credit certificate, the credit can be claimed by the business and used to offset Arizona tax liability or transferred to a third-party organization for use. Organizations exempt from taxation under Title 43 Chapter 12 of Arizona statutes are eligible to receive a commercial/industrial tax credit for installing a solar energy device A.R.S. §43-1085(A)(2). The credit generated may be transferred to a third-party organization that financed, installed or manufactured the device. Credits are claimed on a tax return for the tax year identified on the credit certificate.

Commerce cannot certify tax credits under this program that exceed \$1 million in any calendar year. Therefore, tax credits are authorized on a first come, first served basis, according to the priority placement number issued by Commerce. The date the device becomes operational determines the calendar year cap from which the allocation is made. The tax credit is equal to 10% of the installed cost of the solar energy device not to exceed \$25,000 of credits for one building in a single tax year and \$50,000 total credits per business per tax year. Tax credits can be used to offset Arizona tax liability; any unused credit amounts can be carried forward for a five-year period.

Section 2. Eligibility Requirements

A business may be eligible for tax credits upon completion of installation of a solar energy device and compliance with requirements in A.R.S. §41-1510.01, if it:

- Installs a solar energy device as defined in A.R.S. §42-5001(15)
- Submits a completion report for each solar energy device as required by A.R.S. §41-1510.01(E) that
 - ✓ Certifies that the installed solar energy device is operational, and
 - ✓ Provides records of installation expenses for review by Commerce
- Does not exceed the tax year credit limitations under A.R.S. §§43-1085 & 43-1164
- Seeks tax credits while there are sufficient tax credits available under the program to satisfy the requested amount in the completion report (A.R.S. §41-1510.01(E)(4))

¹ These Guidelines are provided to assist applicants. In case of conflict between what is presented here and the Arizona Revised Statutes, the statutes and the Arizona Administrative Code shall prevail. See A.R.S §§41-1510.01, 43-1085 and 43-1164.

Section 3. Definition of Program Terms

For purposes of applying for and maintaining eligibility for the Solar Energy Tax Credit Program, the following terms are either defined in A.R.S. §41-1510.01 or by Commerce. If a term is not defined, the most commonly accepted meaning will apply. For purposes of this program:

1. "Application" means a Commerce form "Application for Initial Certification of a Solar Energy Device" and all required attachments to apply for initial certification. An "application" may be based on the installation of a single solar energy device or multiple solar energy devices.
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. "Certified entity" means the business or third-party that has been authorized by Commerce to claim the tax credits on an Arizona tax return.
4. "Completion report" means a Commerce form "Completion Report for a Solar Energy Tax Credit Certificate" and all the required attachments to apply for tax credits. The "completion report" must indicate that a solar energy device is operational and meets all eligibility requirements under A.R.S. §§41-1510.01, 43-1085 & 43-1164.
5. "Credit Certificate" means a document issued by Commerce to a certified entity after review and approval of a completion report. The "credit certificate" will include a description of the solar energy device, a unique identifying number, priority placement number, the amount of the credit, the tax year the credit is available to be used, the certified business name and the third-party organization name, if applicable.
6. "Date of receipt" means the day an application or completion report is **delivered to and accepted by** Commerce via United States Postal Service, private delivery service or hand delivery. Upon receipt Commerce shall **date stamp** each application or completion report. Postmarks will be disregarded when determining the "date of receipt." Any other form of delivery for an application or completion report, including emailed or faxed copies will be rejected by Commerce and the applicant notified.
7. "Financing costs" means all fees, interest, penalties and origination, servicing and closing charges related to the extension of credit for acquisition and installation of a solar energy device.
8. "First come, first served" means the numerical order in which Commerce shall authorize available tax credits, which is established by the **date of receipt of a completion report**.
9. "Installed cost" means the total price of the solar energy device, before rebate, plus installation charges, if any. The total "installed cost" does not include financing costs.
10. "Letter of initial certification" means the written correspondence from Commerce indicating the eligibility of a solar energy device after review and approval of an application. The "letter of initial certification" will include a unique identifying number, description of the solar energy device and the certified business name.
11. "Performance level" means the estimated energy production or savings of a solar energy device measured in kilowatt hours.
12. "Priority placement number" means the order in which the calendar year cap is allocated. The order is established by either:
 - a. The date of receipt of a completion report by Commerce, or
 - b. The number determined by lottery for each day multiple completion reports are received by Commerce.
13. "Solar energy device" means a system or series of mechanisms designed primarily to provide heating, to provide cooling, to produce electrical power, to produce mechanical power, to provide solar daylighting or to provide any combination of the foregoing by means of collecting and transferring solar generated energy into such uses either by active or passive means, including wind generator systems that produce electricity. Solar energy systems may also have the capability of storing solar energy for future use. Passive systems shall clearly be designed as a solar energy device, such as a trombe wall, and not merely as a part of a normal structure, such as a window.
14. "Substantially complete" means all questions in the application or completion report are fully addressed by the applicant and all documents required by Commerce are attached or can be supplied within 14 calendar day after receipt of notification by Commerce of any deficiencies. One extension of an additional 14 calendar days may be requested and granted by the program manager. Applications or completion reports that are not substantially complete will be considered withdrawn by the applicant.
15. "Tax credits" means the incentive provided under A.R.S. §§41-1510.01 and 43-1085 or 43-1164 that may be used to offset Arizona income tax liability.

16. "Third-party organization" means someone unrelated to the purchaser of a solar energy device that financed (extends credit for the acquisition or installation of the device), installed or manufactured the solar energy device.
17. "Unique identifying number" means the code assigned to each solar energy device when an application is submitted to Commerce.

Section 4. Tax Credits Provisions and Limitations

Provisions

The Commercial/Industrial Solar Energy Tax Credit Program provides a transferrable Arizona income tax credit for the installation of solar energy devices certified by Commerce (A.R.S. §§43-1085 and 43-1164). These tax credits can be used to offset Arizona tax liability on a dollar for dollar basis. The tax credit equals up to 10% of the installed cost of a solar energy device and is available for tax years beginning from and after December 31, 2005 through December 31, 2018. Commerce shall certify tax credits to a certified business on a first come, first served basis according to the priority placement number assigned to each completion report.

Limitations

- A. Commerce cannot certify a total amount of tax credits under this program that exceeds \$1,000,000 in any calendar year. A.R.S. §41-1510.01(F)
- B. Commerce shall not allocate tax credits from future years' calendar cap until the first business day of a calendar year.
- C. Tax credits will be certified according to the priority placement number assigned upon receipt of a completion report for each solar energy device. The date the solar device becomes operational dictates the cap year from which allocation is made and the tax year the credit can be used.
- D. Commerce will not certify more than \$25,000 in tax credits for a single building per tax year. Further, Commerce cannot certify more than \$50,000 in tax credits to a business per tax year (A.R.S. §§43-1085 & 43-1164). The amount of the credit certificate may be less than amount generated by the solar energy device, if necessary to uphold the tax credit limitations.
- E. A business may transfer the tax credits generated by a solar energy device to a third-party organization. If a business decides to transfer the credits, the entire allocation for a specific solar energy device must be transferred to the third-party organization. A request to transfer part of an allocation of tax credits for a solar energy device will not be certified. A business that opts to transfer all tax credits generated by a solar energy device to a third-party organization is making an **irrevocable election**.
- F. Businesses exempt from taxation under Title 43 Chapter 12 of Arizona revised statutes are eligible to receive a tax credit under the Solar Program. If a business decides to transfer the credits, the entire allocation for a specific solar energy device must be transferred to the third-party organization. A request to transfer part of an allocation of tax credits for a solar energy device will not be certified. A business that opts to transfer all the tax credits generated by a solar energy device to a third-party organization is making an **irrevocable election**. (A.R.S. §43-1085(A)(2) & A.R.S. §43-1164(A)(2)).
- G. Once a certified entity is identified on the completion report as a recipient of the tax credits, no substitutions or revisions shall be allowed.
- H. Solar energy devices may not be added to an application after the date of receipt of the application. The tax credits are based on each individual device, not an aggregation of devices.
- I. A business will not be awarded solar energy tax credits on devices acquired under power purchase agreements or for devices gifted to that business.
- J. Limitations apply for leased solar devices. The credit amount is limited to the actual amount paid during the tax year in which the device became operational. If the device is purchased through a capital lease the credit is based on the total amount of the capital lease.

Section 5. Submitting Applications for Initial Certification

- A. A business may apply for initial certification by submitting an "Application for Initial Certification of a Solar Energy Device." A business may have more than one application at any given time. If an application proposes installing more

than one solar energy device at a single location, the business shall submit a separate project page for each device. A separate unique identifying number will be issued for each solar energy device.

The application shall include:

1. Name, address and telephone number for the business
 2. Name, address and telephone number for a contact person of the business
 3. A project page for each solar energy device included in the application:
 - a. Address of business facility where the solar energy device will be installed
 - b. Description of solar energy device
 - c. Total cost of the solar energy device excluding financing costs
 - d. Copy of an estimate or quotation for purchase and installation of the solar energy device
 - e. Projected beginning and ending date of installation
 - f. Projected date the solar energy device will be operational
 - g. Estimated annual performance level of the solar energy device
Formula to use: $1700 \times (\# \text{ of panels} \times \text{wattage rating}) = \text{Answer} \div 1000 = \text{Estimated annual performance}$
Example: 20, 160W panels; $1700 \times (20 \times 160) = 5,440,000 \div 1000 = 5,440 \text{ kWh}$
 - h. Projected amount of credits to be claimed
 - i. Amount of credits previously certified
 - j. Amount of credits previously transferred to a third-party organization
 4. A signed affidavit in which the business agrees, but is not limited, to the following:
 - a. To furnish records of expenditures by the person who provided or installed the device
 - b. To furnish proof of payment by the business for the installation of the device
 - c. That applications are confidential and not subject to disclosure under Title 39 for eighteen months after the date of receipt of an application
 - d. That the information contained in the application is true and correct under penalty of perjury
- B. If a solar energy device is installed and operational at the time of application, concurrent with submittal of an application to Commerce, a business may also submit a "Completion Report for a Solar Energy Tax Credit Certificate." **The completion report must be substantially complete, meaning all questions are fully addressed and all documents required by Commerce are attached when delivered to Commerce. If the completion report is not substantially complete Commerce will consider it withdrawn by the business and will void the priority placement number assigned to the completion report.**
- C. During review of a substantially complete application, Commerce may request additional information, conduct a site visit or discuss the application with the business. The business will have 14 calendar days to supply any additional information requested by Commerce. If the requested information is not timely submitted to Commerce the application will be considered withdrawn by the business.
- D. Commerce shall make a determination with regard to each application within 30 calendar days after the date of receipt of a complete application.
- E. If Commerce denies initial certification, the business may appeal the decision in accordance with A.R.S. Title 41 Chapter 6 Article 10.
- F. If the business has an eligible solar energy device, Commerce shall issue initial certification. Initial certification is issued to a certified business for each solar energy device. The Commerce letter of initial certification will include a unique identifying number, description of the solar energy device and the certified business name. **Initial certification does not guarantee receipt of tax credits under this program; in accordance to the process, initial certification is issued before Commerce determines final eligibility.**

Section 6. Assigning Priority Placement Numbers

The process described in this section will determine how priority placement numbers are assigned to completion reports. The priority placement number determines the order in which Commerce allocates that calendar year's cap. Commerce shall accept completion reports for a calendar year's cap on or after the first business day of each calendar year. Any completion reports received prior to the first business day of the calendar year will be rejected and the applicant will be notified. Commerce will date stamp completion reports on the date of receipt and assign a priority placement number as follows:

- If a single completion report is received on any day, it will be assigned a priority placement number on the next business day following the date of receipt.
- If more than one completion report is received on any day, each completion report will be entered into a lottery for that day. The lottery will be held on the next business day following the date of receipt of the completion report by Commerce. Priority placement numbers will be assigned to each completion report in the order established by lottery.

Any completion report for a calendar year's cap that is not substantially complete will be considered withdrawn by the business and processing will cease, therefore resulting in the voidance of the priority placement number. If the business withdraws a completion report, it may file a revised completion report at a later date for the same solar energy device and receive a new priority placement number.

Section 7. Calendar Year Cap Management

Commerce shall certify tax credits according to A.R.S. §41-1510.01(F), 43-1085(A), (B) and (D) and 43-1164(A), (B) and (D) as outlined in Section 4 of this Program Guideline. Commerce shall not allocate tax credits from future years' calendar caps until the first business day of the calendar year. Tax credits will be certified according to the priority placement number assigned to each completion report. **The date of receipt by Commerce of a completion report for a solar energy device dictates the priority placement number. The date the device becomes operational determines the calendar year cap from which allocation is made.** The total amount of credits certified for a solar energy device shall be applied against one calendar year cap.

When a completion report is submitted, if sufficient cap is not available to satisfy the requested amount of credits or if the limitations in Section 4 of this Program Guideline will be exceeded, Commerce may offer the business the remaining allocation amount. The business will have ten business days to either accept the offer or withdraw its completion report. **If all cap for the calendar year is ceased, Commerce will unavoidably deny any applications received thereafter; and cannot allocate any credits from the previous or following year cap.**

Section 8. Submitting Completion Reports

A. A business must submit an application to Commerce or receive a letter of initial certification from Commerce to be eligible to submit a completion report under this program. Once a solar energy device is operational a business can request a credit certificate by submitting a Commerce form: "Completion Report for a Solar Energy Tax Credit Certificate." A business may have more than one completion report at any given time and must submit a separate completion report for each solar energy device. A separate priority placement number will be issued for each solar energy device. Any completion report that is not substantially complete will be considered withdrawn by the business, processing will cease, and the priority placement number assigned to it will be voided.

The completion report shall include:

1. Name, address and telephone number for the business
2. Name, address and telephone number for a contact person of the business
3. Name, address and telephone number of the third-party organization, if an irrevocable election is made to transfer all the credits generated by a solar energy device
4. Address of business facility where the solar energy device was installed
5. The unique identifying number assigned to the solar energy device at the time of application
6. Type of solar energy device
7. Certification that the solar energy device is operational
8. Date the installation began and ended
9. Records of expenditures from the person who provided or installed the device
10. Proof of payment by the business for the installation of the device
11. Total amount of tax credits to be claimed
12. Amount of credits previously certified
13. Amount of credits previously passed through to a third-party organization
14. The business must submit to Commerce a signed affidavit in which the business agrees, but is not limited, to the following:
 - a. That Commerce may conduct a site visit during normal business hours
 - b. That the information contained in the application is true and correct under penalty of perjury

- B. During review of a substantially complete completion report, Commerce may request additional information, conduct a site visit or discuss the report with the business. The business will have 14 calendar days to supply any additional information requested by Commerce. If the information is not timely submitted to Commerce the completion report will be considered withdrawn by the business and the priority placement number assigned will be voided.
- C. Commerce shall attempt to make a determination with regard to each completion report within 30 days of the date of receipt of the completion report
- D. If Commerce denies a credit certificate, the business may appeal the decision in accordance with A.R.S. Title 41 Chapter 6 Article 10. An appeal does not guarantee the receipt of tax credits under the Commercial/Industrial Solar Energy Tax Credit Program as Commerce will not reserve any requested tax credits should an appeal be sought
- E. If the eligibility requirements are met, Commerce shall issue a credit certificate and transmit the certification information to Revenue. A credit certificate is issued to a certified entity for each solar energy device. The credit certificate includes a description of the solar energy device, a unique identifying number, priority placement number, the amount of the credit, the tax year the credit is available to be used, the certified business name or the third-party organization name, if applicable. The amount of the credit certificate may be less than amount generated by the solar energy device, if necessary to uphold the tax credit limitations in Section 4 of this Program Guideline
- F. Any completion reports received after Commerce has authorized the entire amount of tax credits available in a calendar years' cap under this program, will be denied and the applicant will be notified

Section 9. Claiming Tax Credits

After a business has received a credit certificate from Commerce, it may claim the certified tax credits with the Arizona Department of Revenue. The tax credit must be claimed by the certified business on an Arizona income tax return along with Revenue Form 336 for the tax year identified on the credit certificate, which will be the year the device becomes operational. If the certified business elects to transfer all of the tax credits generated by a solar energy device to a third-party organization, the third-party organization must also claim the credit on an Arizona income tax return along with Revenue Form 336 for the tax year identified on the credit certificate.

After the certified business claims the tax credits on its Arizona income tax return it may use all or part of the tax credits. If a third-party organization is the recipient of the tax credits, it may use all or part of the tax credits it received from the certified business. Any unused tax credits may be carried forward for up to five consecutive taxable years. The five-year carry forward period begins the year following the tax year in which the credits were claimed on an Arizona income tax return.

Co-owners of a business (including partners in a partnership, LLC members and shareholders of a corporation) may each claim their pro rata share of the certified tax credits. 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. §§43-1085(F) and 43-1164(F))

Section 10. Additional Incentives

The State of Arizona also provided the following incentives:

1. A **transaction privilege tax exemption** (TPT exemption) on:
 - a. The total sales price of solar energy devices sold by retailers that are registered with the Arizona Department of Revenue (Revenue). See A.R.S. §§42-5061 and 42-5001.
 - b. Gross income from contracts to provide and install solar energy devices. There is no limit on the amount of the contract. The prime contractor must be registered with Revenue to receive the TPT exemption. See A.R.S. §§42-5075 and 42-5001.
2. A **property tax exemption** on solar energy devices used for the production of solar energy for on-site consumption. These devices are considered to add no value to real property and, therefore, do not raise property taxes. See A.R.S. §§42-11054 and 44-1761.
3. A solar energy device installed at a **residential location** may be eligible for a tax credit equal to 25% of the total installed cost of the device not to exceed \$1,000 under A.R.S. §43-1083. The

residential tax credit program is administered solely by the Arizona Department of Revenue

The Solar Program is administered through Commerce. However, the TPT and property tax incentives are administered through Revenue.

Arizona Commerce Authority
Commercial/Industrial Solar Energy Tax Credit Program
Attn: Blanca Carrillo
333 N. Central Ave., Suite 1900
Phoenix, AZ 85004

Questions regarding the program can be directed to:
BlancaC@azcommerce.com