

REFERENCE TITLE: renewable energy credit; carryover expansion

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

HB 2301

Introduced by
Representative Fann

AN ACT

AMENDING SECTIONS 43-1083.02 AND 43-1164.03, ARIZONA REVISED STATUTES;
RELATING TO TAX CREDITS FOR RENEWABLE ENERGY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 43-1083.02, Arizona Revised Statutes, is amended to
3 read:
4 43-1083.02. Renewable energy production tax credit: definitions
5 A. A credit is allowed against the taxes imposed by this title for the
6 production of electricity using renewable energy resources.
7 B. The taxpayer is eligible for the credit:
8 1. If the taxpayer holds title to a qualified energy generator that
9 first produces electricity from and after December 31, 2010 and before
10 January 1, 2021.
11 2. For ten consecutive calendar years beginning with the calendar year
12 in which the qualified energy generator begins producing electricity that is
13 transmitted through a transmission facility to a grid connection with a
14 public or private electric transmission or distribution utility system. That
15 same date applies with respect to that generator until the expiration of the
16 ten-year period regardless of whether the generator is sold to another
17 taxpayer or goes out of production before the expiration of the ten-year
18 period.
19 C. The credit authorized by this section is based on the electricity
20 that is generated by a qualified energy generator during a calendar year.
21 For a taxpayer that files on a fiscal year basis, the credit shall be claimed
22 on the return for the taxable year in which the calendar year ends.
23 D. Subject to subsection G of this section, the amount of the credit
24 is:
25 1. One cent per kilowatt-hour of the first two hundred thousand
26 megawatt-hours of electricity produced by a qualified energy generator in the
27 calendar year using a wind or biomass derived qualified energy resource.
28 2. The following amounts for electricity produced by a qualified
29 energy generator using a solar light derived or solar heat derived qualified
30 energy resource:
31 (a) Four cents per kilowatt-hour in the first calendar year in which
32 the qualified energy generator produces electricity.
33 (b) Four cents per kilowatt-hour in the second calendar year in which
34 the qualified energy generator produces electricity.
35 (c) Three and one-half cents per kilowatt-hour in the third calendar
36 year in which the qualified energy generator produces electricity.
37 (d) Three and one-half cents per kilowatt-hour in the fourth calendar
38 year in which the qualified energy generator produces electricity.
39 (e) Three cents per kilowatt-hour in the fifth calendar year in which
40 the qualified energy generator produces electricity.
41 (f) Three cents per kilowatt-hour in the sixth calendar year in which
42 the qualified energy generator produces electricity.
43 (g) Two cents per kilowatt-hour in the seventh calendar year in which
44 the qualified energy generator produces electricity.

1 (h) Two cents per kilowatt-hour in the eighth calendar year in which
2 the qualified energy generator produces electricity.

3 (i) One and one-half cents per kilowatt-hour in the ninth calendar
4 year in which the qualified energy generator produces electricity.

5 (j) One cent per kilowatt-hour in the tenth calendar year in which the
6 qualified energy generator produces electricity.

7 E. To qualify for the purposes of this section, an energy generator
8 may be located within one mile of an existing qualified energy generator only
9 if the owner of the energy generator or the owner's corporate affiliates are
10 not the owner of or the corporate affiliate of the owner of the existing
11 qualified energy generator.

12 F. To be eligible for the credit under this section, the taxpayer must
13 apply to the department, on a form prescribed by the department, for
14 certification of the credit. The department shall only accept applications
15 beginning January 2 through January 31 of the year following the calendar
16 year for which the credit is being requested. The application shall include:

17 1. The name, address and social security number or federal employer
18 identification number of the applicant.

19 2. The location of the taxpayer's facility that produces electricity
20 using renewable energy resources for which the credit is claimed.

21 3. The amount of the credit that is claimed.

22 4. The date the qualified energy generator began producing
23 commercially marketable amounts of electricity.

24 5. Any additional information that the department requires.

25 G. The department shall review each application under subsection F of
26 this section and certify to the taxpayer the amount of the credit that is
27 authorized. The amount of the credit for any calendar year shall not exceed
28 two million dollars per facility that produces electricity using renewable
29 energy resources. Credits are allowed under this section and section
30 43-1164.03 on a first come, first served basis. The department shall not
31 authorize tax credits under this section and section 43-1164.03 that exceed
32 in the aggregate a total of twenty million dollars for any calendar year.
33 The first time that a taxpayer submits a qualified application for a
34 qualified energy generator under subsection F of this section, the
35 department shall add the taxpayer's name to a credit authorization list that
36 is maintained in the order in which qualified applications are first received
37 by the department on behalf of the qualified energy generator. A taxpayer's
38 position on the credit authorization list shall be determined in the first
39 year the taxpayer submits an application under subsection F of this section
40 for the qualified energy generator. The taxpayer's position on the credit
41 authorization list for a particular qualified energy generator shall remain
42 unchanged for the ten years that are specified in subsection B, paragraph 2
43 of this section or until a year in which the taxpayer fails to submit a
44 timely application under subsection F of this section or otherwise fails to
45 comply with this section. If a taxpayer is removed from the credit

1 authorization list for a qualified energy generator, the taxpayer may
2 establish a new position on the credit authorization list in a subsequent
3 year by filing a timely application for a qualified energy generator that
4 qualifies for the credit. If an application is received that, if authorized,
5 would require the department to exceed the twenty million dollar limit, the
6 department shall grant the applicant only the remaining credit amount that
7 would not exceed the twenty million dollar limit. After the department
8 authorizes twenty million dollars in tax credits, the department shall deny
9 any subsequent applications that are received for that calendar year. The
10 department shall not authorize any additional tax credits that exceed the
11 twenty million dollar limit even if the amounts that have been certified to
12 any taxpayer were not claimed or a taxpayer otherwise fails to meet the
13 requirements to claim the additional credit.

14 H. Co-owners of a qualified energy generator, including partners in a
15 partnership, members of a limited liability company and shareholders of an S
16 corporation as defined in section 1361 of the internal revenue code, may each
17 claim the pro rata share of the credit allowed under this section based on
18 ownership interest. The total of the credits allowed all such owners of the
19 qualified energy generator may not exceed the amount that would have been
20 allowed for a sole owner of the generator.

21 I. If the allowable tax credit for a taxpayer exceeds the taxes
22 otherwise due under this title on the claimant's income, or if there are no
23 taxes due under this title, the amount of the claim not used to offset taxes
24 under this title may be carried forward for not more than ~~five~~ TWENTY
25 consecutive taxable years as a credit against subsequent years' income tax
26 liability.

27 J. The department shall adopt rules and publish and prescribe forms
28 and procedures as necessary to effectuate the purposes of this section.

29 K. For the purposes of this section:

30 1. "Biomass" means organic material that is available on a renewable
31 or recurring basis, including:

32 (a) Forest-related materials, including mill residues, logging
33 residues, forest thinnings, slash, brush, low-commercial value materials or
34 undesirable species, salt cedar and other phreatophyte or woody vegetation
35 removed from river basins or watersheds and woody material harvested for the
36 purpose of forest fire fuel reduction or forest health and watershed
37 improvement.

38 (b) Agricultural-related materials, including orchard trees, vineyard,
39 grain or crop residues, including straws and stover, aquatic plants and
40 agricultural processed coproducts and waste products, including fats, oils,
41 greases, whey and lactose.

42 (c) Animal waste, including manure and slaughterhouse and other
43 processing waste.

44 (d) Solid woody waste materials, including landscape or right-of-way
45 tree trimmings, rangeland maintenance residues, waste pallets, crates and

1 manufacturing, construction and demolition wood wastes, excluding
2 pressure-treated, chemically-treated or painted wood wastes and wood
3 contaminated with plastic.

4 (e) Crops and trees planted for the purpose of being used to produce
5 energy.

6 (f) Landfill gas, wastewater treatment gas and biosolids, including
7 organic waste byproducts generated during the wastewater treatment process.

8 2. "Qualified energy generator" means a facility that has at least
9 five megawatts generating capacity, that is located on land in this state
10 owned or leased by the taxpayer, that produces electricity using a qualified
11 energy resource and that sells that electricity to an unrelated entity,
12 unless the electricity is sold to a public service corporation.

13 3. "Qualified energy resource" means a resource that generates
14 electricity through the use of only the following energy sources:

15 (a) Solar light.

16 (b) Solar heat.

17 (c) Wind.

18 (d) Biomass.

19 Sec. 2. Section 43-1164.03, Arizona Revised Statutes, is amended to
20 read:

21 43-1164.03. Renewable energy production tax credit; definitions

22 A. A credit is allowed against the taxes imposed by this title for the
23 production of electricity using renewable energy resources.

24 B. The taxpayer is eligible for the credit:

25 1. If the taxpayer holds title to a qualified energy generator that
26 first produces electricity from and after December 31, 2010 and before
27 January 1, 2021.

28 2. For ten consecutive calendar years beginning with the calendar year
29 in which the qualified energy generator begins producing electricity that is
30 transmitted through a transmission facility to a grid connection with a
31 public or private electric transmission or distribution utility system. That
32 same date applies with respect to that generator until the expiration of the
33 ten-year period regardless of whether the generator is sold to another
34 taxpayer or goes out of production before the expiration of the ten-year
35 period.

36 C. The credit authorized by this section is based on the electricity
37 that is generated by a qualified energy generator during a calendar year.
38 For a taxpayer that files on a fiscal year basis, the credit shall be claimed
39 on the return for the taxable year in which the calendar year ends.

40 D. Subject to subsection G of this section, the amount of the credit
41 is:

42 1. One cent per kilowatt-hour of the first two hundred thousand
43 megawatt-hours of electricity produced by a qualified energy generator in the
44 calendar year using a wind or biomass derived qualified energy resource.

1 2. The following amounts for electricity produced by a qualified
2 energy generator using a solar light derived or solar heat derived qualified
3 energy resource:

4 (a) Four cents per kilowatt-hour in the first calendar year in which
5 the qualified energy generator produces electricity.

6 (b) Four cents per kilowatt-hour in the second calendar year in which
7 the qualified energy generator produces electricity.

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21 year in which the qualified energy generator produces electricity.

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24 E. To qualify for the purposes of this section, an energy generator
25 may be located within one mile of an existing qualified energy generator only
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28 qualified energy generator.

29 F. To be eligible for the credit under this section, the taxpayer must
30 apply to the department, on a form prescribed by the department, for
31 certification of the credit. The department shall only accept applications
32 beginning January 2 through January 31 of the year following the calendar
33 year for which the credit is being requested. The application shall include:

34 1. The name, address and social security number or federal employer
35 identification number of the applicant.

36 2. The location of the taxpayer's facility that produces electricity
37 using renewable energy resources for which the credit is claimed.

38 3. The amount of the credit that is claimed.

39 4. The date the qualified energy generator began producing
40 commercially marketable amounts of electricity.

41 5. Any additional information that the department requires.

42 G. The department shall review each application under subsection F of
43 this section and certify to the taxpayer the amount of the credit that is
44 authorized. The amount of the credit for any calendar year shall not exceed
45 two million dollars per facility that produces electricity using renewable

1 energy resources. Credits are allowed under this section and section
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 14 unchanged for the ten years that are specified in subsection B, paragraph 2
 15 of this section or until a year in which the taxpayer fails to submit a
 16 timely application under subsection F of this section or otherwise fails to
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 18 authorization list for a qualified energy generator, the taxpayer may
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 26 any subsequent applications that are received for that calendar year. The
 27 department shall not authorize any additional tax credits that exceed the
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31 H. Co-owners of a qualified energy generator, including corporate
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6 undesirable species, salt cedar and other phreatophyte or woody vegetation
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8 purpose of forest fire fuel reduction or forest health and watershed
9 improvement.

10 (b) Agricultural-related materials, including orchard trees, vineyard,
11 grain or crop residues, including straws and stover, aquatic plants and
12 agricultural processed coproducts and waste products, including fats, oils,
13 greases, whey and lactose.

14 (c) Animal waste, including manure and slaughterhouse and other
15 processing waste.

16 (d) Solid woody waste materials, including landscape or right-of-way
17 tree trimmings, rangeland maintenance residues, waste pallets, crates and
18 manufacturing, construction and demolition wood wastes, excluding
19 pressure-treated, chemically-treated or painted wood wastes and wood
20 contaminated with plastic.

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22 energy.

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