

REFERENCE TITLE: tax credit; qualified employment positions

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

HB 2619

Introduced by
Representatives Seel, Allen, Smith

AN ACT

AMENDING SECTIONS 20-224.03, 43-1074 AND 43-1161, ARIZONA REVISED STATUTES;
RELATING TO TAX CREDITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-224.03, Arizona Revised Statutes, is amended to
3 read:

4 20-224.03. Premium tax credit for new employment

5 A. For taxable years beginning from and after June 30, 2011 through
6 December 31, 2019, a credit is allowed against the premium tax liability
7 imposed pursuant to section 20-224, 20-837, 20-1010, 20-1060 or 20-1097.07
8 for net increases in full-time employees residing in this state and hired in
9 qualified employment positions in this state as computed and certified by the
10 Arizona commerce authority pursuant to section 41-1525. A tax credit is not
11 allowed against the portion of the tax payable to the fire fighters' relief
12 and pension fund pursuant to section 20-224 or the portion of the tax payable
13 to the public safety personnel retirement system pursuant to section
14 20-224.01.

15 B. Subject to subsection F of this section, the amount of the tax
16 credit is equal to:

17 1. Three thousand dollars for each full-time employee hired in a
18 qualified employment position in the first year or partial year of
19 employment. Employees hired in the last ninety days of the taxable year are
20 excluded for that taxable year and are considered to be new employees in the
21 following taxable year.

22 2. Three thousand dollars for each full-time employee in a qualified
23 employment position for the full taxable year in the second year of
24 continuous employment.

25 3. Three thousand dollars for each full-time employee in a qualified
26 employment position for the full taxable year in the third year of continuous
27 employment.

28 C. The capital investment and the new qualified employment positions
29 requirements of section 41-1525, subsection B must be accomplished within
30 twelve months after the start of the required capital investment. No credit
31 may be claimed until both requirements are met. A business that meets the
32 requirements of section 41-1525, subsection B for a location is eligible to
33 claim first year credits for three years beginning with the taxable year in
34 which those requirements are completed. Employees hired at the location
35 before the beginning of the taxable year but during the twelve-month period
36 allowed in this subsection are considered to be new employees for the taxable
37 year in which all of those requirements are completed. The employees that
38 are considered to be new employees for the taxable year under this subsection
39 shall not be included in the average number of full-time employees during the
40 immediately preceding taxable year until the taxable year in which all of the
41 requirements of section 41-1525, subsection B are completed. An employee
42 working at a temporary work site in this state while the designated location
43 is under construction is considered to be working at the designated location
44 if all of the following occur:

- 1 1. The employee is hired after the start of the required investment at
2 the designated location.
- 3 2. The employee is hired to work at the designated location after it
4 is completed.
- 5 3. The payroll for the employees destined for the designated location
6 is segregated from other employees.
- 7 4. The employee is moved to the designated location within thirty days
8 after its completion.
- 9 D. To qualify for a credit under this section, the insurer and the
10 employment positions must meet the requirements prescribed by section
11 41-1525.
- 12 E. A credit is allowed for employment in the second and third year
13 only for qualified employment positions for which a credit was claimed and
14 allowed in the first year.
- 15 F. The net increase in the number of qualified employment positions is
16 the lesser of the total number of filled qualified employment positions
17 created at the designated location or locations during the taxable year or
18 the difference between the average number of full-time employees in this
19 state in the current taxable year and the average number of full-time
20 employees in this state during the immediately preceding taxable year. The
21 net increase in the number of qualified employment positions computed under
22 this subsection may not exceed the difference between the average number of
23 full-time employees in this state in the current taxable year and the average
24 number of full-time employees in this state during the immediately preceding
25 taxable year.
- 26 G. A taxpayer who claims a credit under section 20-224.04 shall not
27 claim a credit under this section with respect to the same employment
28 positions.
- 29 H. If the allowable tax credit exceeds the state premium tax
30 liability, the amount of the claim not used as an offset against the state
31 premium tax liability may be:
 - 32 1. Carried forward as a tax credit against subsequent years' state
33 premium tax liability for a period not exceeding five taxable years.
 - 34 2. USED AS AN OFFSET AGAINST THE TAXPAYER'S REAL OR PERSONAL PROPERTY
35 TAX LIABILITY INCURRED FROM REAL PROPERTY PURSUANT TO SECTIONS 42-12001,
36 42-12002, 42-12003, 42-12004, 42-12005 AND 42-12006 AND PERSONAL PROPERTY
37 PURSUANT TO SECTIONS 42-19002, 42-19003, 42-19003.01, 42-19004 AND 42-19005.
38 THE DEPARTMENT SHALL TRANSFER MONIES RECEIVED PURSUANT TO THIS PARAGRAPH TO
39 THE APPROPRIATE COUNTY TREASURER FOR DISTRIBUTION TO THE AFFECTED TAXING
40 JURISDICTIONS.
 - 41 3. USED AS AN OFFSET AGAINST THE TAXPAYER'S WITHHOLDING TAX PURSUANT
42 TO SECTIONS 43-402, 43-403, 43-404, 43-405, 43-406, 43-407, 43-408 AND
43 43-409.
- 44 I. If the business is sold or changes ownership through
45 reorganization, stock purchase or merger, the new taxpayer may claim first

1 year credits only for the qualified employment positions that it created and
2 filled with an eligible employee after the purchase or reorganization was
3 complete. If a person purchases a taxpayer that had qualified for first or
4 second year credits or if an insurance business changes ownership through
5 reorganization, stock purchase or merger, the new taxpayer may claim the
6 second or third year credits if it meets other eligibility requirements of
7 this section. Credits for which a taxpayer qualified before the changes
8 described in this subsection are terminated and lost at the time the changes
9 are implemented.

10 J. An insurer that claims a tax credit against state premium tax
11 liability is not required to pay any additional retaliatory tax imposed
12 pursuant to section 20-230 as a result of claiming that tax credit.

13 K. A failure to timely report and certify to the Arizona commerce
14 authority the information prescribed by section 41-1525, subsection E and in
15 the manner prescribed by section 41-1525, subsection F disqualifies the
16 insurer from the credit under this section. The department of insurance
17 shall require written evidence of the timely report to the Arizona commerce
18 authority.

19 L. A tax credit under this section is subject to recovery for a
20 violation described in section 41-1525, subsection H.

21 M. The department may adopt rules necessary for the administration of
22 this section.

23 Sec. 2. Section 43-1074, Arizona Revised Statutes, is amended to read:
24 43-1074. Credit for new employment

25 A. For taxable years beginning from and after June 30, 2011, a credit
26 is allowed against the taxes imposed by this title for net increases in
27 full-time employees residing in this state and hired in qualified employment
28 positions in this state as computed and certified by the Arizona commerce
29 authority pursuant to section 41-1525.

30 B. Subject to subsection F of this section, the amount of the credit
31 is equal to:

32 1. Three thousand dollars for each full-time employee hired in a
33 qualified employment position in the first year or partial year of
34 employment. Employees hired in the last ninety days of the taxable year are
35 excluded for that taxable year and are considered to be new employees in the
36 following taxable year.

37 2. Three thousand dollars for each full-time employee in a qualified
38 employment position for the full taxable year in the second year of
39 continuous employment.

40 3. Three thousand dollars for each full-time employee in a qualified
41 employment position for the full taxable year in the third year of continuous
42 employment.

43 C. The capital investment and the new qualified employment positions
44 requirements of section 41-1525, subsection B must be accomplished within
45 twelve months after the start of the required capital investment. No credit

1 may be claimed until both requirements are met. A business that meets the
2 requirements of section 41-1525, subsection B for a location is eligible to
3 claim first year credits for three years beginning with the taxable year in
4 which those requirements are completed. Employees hired at the location
5 before the beginning of the taxable year but during the twelve-month period
6 allowed in this subsection are considered to be new employees for the taxable
7 year in which all of those requirements are completed. The employees that
8 are considered to be new employees for the taxable year under this subsection
9 shall not be included in the average number of full-time employees during the
10 immediately preceding taxable year until the taxable year in which all of the
11 requirements of section 41-1525, subsection B are completed. An employee
12 working at a temporary work site in this state while the designated location
13 is under construction is considered to be working at the designated location
14 if all of the following occur:

15 1. The employee is hired after the start of the required investment at
16 the designated location.

17 2. The employee is hired to work at the designated location after it
18 is completed.

19 3. The payroll for the employees destined for the designated location
20 is segregated from other employees.

21 4. The employee is moved to the designated location within thirty days
22 after its completion.

23 D. To qualify for a credit under this section, the taxpayer and the
24 employment positions must meet the requirements prescribed by section
25 41-1525.

26 E. A credit is allowed for employment in the second and third year
27 only for qualified employment positions for which a credit was claimed and
28 allowed in the first year.

29 F. The net increase in the number of qualified employment positions is
30 the lesser of the total number of filled qualified employment positions
31 created at the designated location or locations during the taxable year or
32 the difference between the average number of full-time employees in this
33 state in the current taxable year and the average number of full-time
34 employees in this state during the immediately preceding taxable year. The
35 net increase in the number of qualified employment positions computed under
36 this subsection may not exceed the difference between the average number of
37 full-time employees in this state in the current taxable year and the average
38 number of full-time employees in this state during the immediately preceding
39 taxable year.

40 G. A taxpayer who claims a credit under section 43-1079 or 43-1083.01
41 shall not claim a credit under this section with respect to the same
42 employment positions.

43 H. If the allowable tax credit exceeds the income taxes otherwise due
44 on the claimant's income, or if there are no state income taxes due on the

1 claimant's income, the amount of the claim not used as an offset against the
2 income taxes may be:

3 1. Carried forward as a tax credit against subsequent years' income
4 tax liability for a period not exceeding five taxable years.

5 2. USED AS AN OFFSET AGAINST THE TAXPAYER'S REAL OR PERSONAL PROPERTY
6 TAX LIABILITY INCURRED FROM REAL PROPERTY PURSUANT TO SECTIONS 42-12001,
7 42-12002, 42-12003, 42-12004, 42-12005 AND 42-12006 AND PERSONAL PROPERTY
8 PURSUANT TO SECTIONS 42-19002, 42-19003, 42-19003.01, 42-19004 AND 42-19005.
9 THE DEPARTMENT SHALL TRANSFER MONIES RECEIVED PURSUANT TO THIS PARAGRAPH TO
10 THE APPROPRIATE COUNTY TREASURER FOR DISTRIBUTION TO THE AFFECTED TAXING
11 JURISDICTIONS.

12 3. USED AS AN OFFSET AGAINST THE TAXPAYER'S WITHHOLDING TAX PURSUANT
13 TO SECTIONS 43-402, 43-403, 43-404, 43-405, 43-406, 43-407, 43-408 AND
14 43-409.

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

21 J. If the business is sold or changes ownership through
22 reorganization, stock purchase or merger, the new taxpayer may claim first
23 year credits only for the qualified employment positions that it created and
24 filled with an eligible employee after the purchase or reorganization was
25 complete. If a person purchases a taxpayer that had qualified for first or
26 second year credits or changes ownership through reorganization, stock
27 purchase or merger, the new taxpayer may claim the second or third year
28 credits if it meets other eligibility requirements of this section. Credits
29 for which a taxpayer qualified before the changes described in this
30 subsection are terminated and lost at the time the changes are implemented.

31 K. A failure to timely report and certify to the Arizona commerce
32 authority the information prescribed by section 41-1525, subsection E, and in
33 the manner prescribed by section 41-1525, subsection F disqualifies the
34 taxpayer from the credit under this section. The department shall require
35 written evidence of the timely report to the Arizona commerce authority.

36 L. A tax credit under this section is subject to recovery for a
37 violation described in section 41-1525, subsection H.

38 Sec. 3. Section 43-1161, Arizona Revised Statutes, is amended to read:
39 43-1161. Credit for new employment

40 A. For taxable years beginning from and after June 30, 2011, a credit
41 is allowed against the taxes imposed by this title for net increases in
42 full-time employees residing in this state and hired in qualified employment
43 positions in this state as computed and certified by the Arizona commerce
44 authority pursuant to section 41-1525.

1 B. Subject to subsection F of this section, the amount of the credit
2 is equal to:

3 1. Three thousand dollars for each full-time employee hired in a
4 qualified employment position in the first year or partial year of
5 employment. Employees hired in the last ninety days of the taxable year are
6 excluded for that taxable year and are considered to be new employees in the
7 following taxable year.

8 2. Three thousand dollars for each full-time employee in a qualified
9 employment position for the full taxable year in the second year of
10 continuous employment.

11 3. Three thousand dollars for each full-time employee in a qualified
12 employment position for the full taxable year in the third year of continuous
13 employment.

14 C. The capital investment and the new qualified employment positions
15 requirements of section 41-1525, subsection B must be accomplished within
16 twelve months after the start of the required capital investment. No credit
17 may be claimed until both requirements are met. A business that meets the
18 requirements of section 41-1525, subsection B for a location is eligible to
19 claim first year credits for three years beginning with the taxable year in
20 which those requirements are completed. Employees hired at the location
21 before the beginning of the taxable year but during the twelve-month period
22 allowed in this subsection are considered to be new employees for the taxable
23 year in which all of those requirements are completed. The employees that
24 are considered to be new employees for the taxable year under this subsection
25 shall not be included in the average number of full-time employees during the
26 immediately preceding taxable year until the taxable year in which all of the
27 requirements of section 41-1525, subsection B are completed. An employee
28 working at a temporary work site in this state while the designated location
29 is under construction is considered to be working at the designated location
30 if all of the following occur:

31 1. The employee is hired after the start of the required investment at
32 the designated location.

33 2. The employee is hired to work at the designated location after it
34 is completed.

35 3. The payroll for the employees destined for the designated location
36 is segregated from other employees.

37 4. The employee is moved to the designated location within thirty days
38 after its completion.

39 D. To qualify for a credit under this section, the taxpayer and the
40 employment positions must meet the requirements prescribed by section
41 41-1525.

42 E. A credit is allowed for employment in the second and third year
43 only for qualified employment positions for which a credit was claimed and
44 allowed in the first year.

1 F. The net increase in the number of qualified employment positions is
2 the lesser of the total number of filled qualified employment positions
3 created at the designated location or locations during the taxable year or
4 the difference between the average number of full-time employees in this
5 state in the current taxable year and the average number of full-time
6 employees in this state during the immediately preceding taxable year. The
7 net increase in the number of qualified employment positions computed under
8 this subsection may not exceed the difference between the average number of
9 full-time employees in this state in the current taxable year and the average
10 number of full-time employees in this state during the immediately preceding
11 taxable year.

12 G. A taxpayer who claims a credit under section 43-1164.01 or 43-1167
13 shall not claim a credit under this section with respect to the same
14 employment positions.

15 H. If the allowable tax credit exceeds the income taxes otherwise due
16 on the claimant's income, or if there are no state income taxes due on the
17 claimant's income, the amount of the claim not used as an offset against the
18 income taxes may be:

19 1. Carried forward as a tax credit against subsequent years' income
20 tax liability for a period not exceeding five taxable years.

21 2. USED AS AN OFFSET AGAINST THE TAXPAYER'S REAL OR PERSONAL PROPERTY
22 TAX LIABILITY INCURRED FROM REAL PROPERTY PURSUANT TO SECTIONS 42-12001,
23 42-12002, 42-12003, 42-12004, 42-12005 AND 42-12006 AND PERSONAL PROPERTY
24 PURSUANT TO SECTIONS 42-19002, 42-19003, 42-19003.01, 42-19004 AND 42-19005.
25 THE DEPARTMENT SHALL TRANSFER MONIES RECEIVED PURSUANT TO THIS PARAGRAPH TO
26 THE APPROPRIATE COUNTY TREASURER FOR DISTRIBUTION TO THE AFFECTED TAXING
27 JURISDICTIONS.

28 3. USED AS AN OFFSET AGAINST THE TAXPAYER'S WITHHOLDING TAX PURSUANT
29 TO SECTIONS 43-402, 43-403, 43-404, 43-405, 43-406, 43-407, 43-408 AND
30 43-409.

31 I. Co-owners of a business, including corporate partners in a
32 partnership, may each claim only the pro rata share of the credit allowed
33 under this section based on the ownership interest. The total of the credits
34 allowed all such owners of the business may not exceed the amount that would
35 have been allowed for a sole owner of the business.

36 J. If the business is sold or changes ownership through
37 reorganization, stock purchase or merger, the new taxpayer may claim first
38 year credits only for the qualified employment positions that it created and
39 filled with an eligible employee after the purchase or reorganization was
40 complete. If a person purchases a taxpayer that had qualified for first or
41 second year credits or changes ownership through reorganization, stock
42 purchase or merger, the new taxpayer may claim the second or third year
43 credits if it meets other eligibility requirements of this section. Credits
44 for which a taxpayer qualified before the changes described in this
45 subsection are terminated and lost at the time the changes are implemented.

1 K. A failure to timely report and certify to the Arizona commerce
2 authority the information prescribed by section 41-1525, subsection E, and in
3 the manner prescribed by section 41-1525, subsection F disqualifies the
4 taxpayer from the credit under this section. The department shall require
5 written evidence of the timely report to the Arizona commerce authority.

6 L. A tax credit under this section is subject to recovery for a
7 violation described in section 41-1525, subsection H.