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)

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

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

20-224.03. Premium tax credit for new employment

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

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

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

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

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

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

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

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

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

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

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

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

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

G. A taxpayer who claims a credit under section 20-224.04 shall not claim a credit under this section with respect to the same employment positions.

H. If the allowable tax credit exceeds the state premium tax liability, the amount of the claim not used as an offset against the state premium tax liability may be:

1. Carried forward as a tax credit against subsequent years' state premium tax liability for a period not exceeding five taxable years.

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

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

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

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

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

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

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

Sec. 2. Section 43-1074, Arizona Revised Statutes, is amended to read:

43-1074. Credit for new employment

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 3. Section 43-1161, Arizona Revised Statutes, is amended to read:

43-1161. Credit for new employment

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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