ARIZONA STATE SENATE

Fifty-Second Legislature, First Regular Session

FINAL AMENDED

FACT SHEET FOR H.B. 2670/S.B. 1468

international operations centers; incentives

Purpose

Extends individual and corporate income tax credits for investment in renewable energy for self-consumption to international operations centers; modifies investment and usage qualifications for the tax credit. Exempts proceeds from electricity and natural gas sold to an international operations center from transaction privilege tax (TPT) and use tax.

Background

TPT is Arizona's version of a sales tax. TPT requires a seller to remit to the state the entire amount of taxes due based on the gross income or proceeds of the business. Typically, the seller includes TPT in the purchase price, but they may opt to absorb the tax.

Use tax is paid in Arizona by any person who uses, stores or consumes any tangible personal property upon which tax has not been collected by a retailer. Out-of-state retailers or utility businesses making sales of tangible personal property to Arizona purchasers must register with the Department of Revenue (DOR) in order to collect the use tax. An Arizona purchaser is liable for use tax on goods purchased from an out-of-state vendor that did not collect the use tax.

Current statute allows a taxpayer to claim an income tax credit for investing in new renewable energy facilities that produce energy primarily for self-consumption in manufacturing operations. In order to qualify, the taxpayer must invest at least $300,000,000 in new renewable energy facilities and must utilize at least 90 percent of the energy produced at those facilities in its own manufacturing processes. Energy that is sold to a utility and is then subsequently transferred back is considered to be self-consumed (A.R.S. §§ 43-1083.04, 43-1164.05).

A JLBC fiscal note estimates the fiscal impact of the utility tax exemption outlined in this legislation to be $1,300,000 in forgone revenue for Fiscal Year 2017. Changes to the renewable energy investment tax credit program do not increase the program's aggregate cap and are therefore not anticipated to have an impact on the state General Fund.

Provisions

1. Defines an *international operations center* as a facility:
   a) that makes a minimum annual investment of $100,000,000 in new capital assets;
   b) that invests at least $1,250,000,000 within 10 years of being certified as an International Operations center by the Arizona Commerce Authority (ACA); and

c) that has qualified for the income tax credit for renewable energy investment and production for self-consumption.

Utility taxation

2. Permits an international operations center to apply for certification to receive utility relief.

3. Requires ACA to approve an application for utility relief or to provide written reasons for the rejection of an application within 60 days of receipt.

4. Specifies than an application submitted to the ACA for utility relief is considered accepted if no action is for more than 60 days after its receipt.

5. Excludes the sale of electricity or natural gas to a certified international operations center from use tax and TPT under the utilities classification.

6. Specifies that a municipality must either tax or exempt in whole the gross proceeds of sales or gross income derived from sales of electricity or natural gas to a certified international operations center.

7. Permits ACA to revoke the certification of an international operations center and notify DOR in writing upon determination that minimum required investment thresholds will not be met. ACA may give special consideration, including temporary exemption, in cases of extreme hardship.

8. Stipulates that an international operations center may not retain its certification if it is directly or indirectly disposed of to another entity in which the original owner holds less than 80 percent interest.

9. Disqualifies an international operations center from future utility relief upon revocation of its certification.

10. Allows a certified international operations center that has failed to meet an annual investment threshold to retain its certification by repaying to DOR the amount of utility relief that was granted in that year.

Income tax credits for renewable energy investment and production for self-consumption

11. Permits an international operations center to claim an individual or corporate tax credit for investment in renewable energy production for self-consumption by:
    a) investing a minimum of $100,000,000 in a new renewable energy facility;
    b) completing the minimum investment within three years of the initial application for the tax credit or before December 31, 2018, whichever is sooner; and
    c) self-consuming any portion of energy generated at the facility for the first five years of its operation and at least 51 percent thereafter.

12. Directs the owner or operator of an international operations center to submit evidence to DOR that 51 percent of energy generated is being self-consumed within 60 days of the end of the fifth year of operation.

13. Specifies that self-consumption includes use of energy by entities that are under at least 80 percent common ownership with the international operations center.

14. Stipulates that power transferred to a utility that provides power to an international operations center is considered self-consumed.

15. Requires an international operations center to cease claiming the tax credit and reimburse the amount of all credits previously received the first year it is known that the required annual investment threshold will not be met, or the year certification is revoked.

16. Stipulates that reimbursement of the tax credit for failure of an international operations center to meet the $1,250,000,000 investment threshold shall be made in inverse proportion to the total capital investment that was made.

17. Modifies distribution of tax credits to allow for each tax payer to claim the maximum available $5,0000,000 per year for five years regardless of the number of renewable energy facilities.

18. Specifies that a taxpayer may not cumulate more than $25,000,000 in aggregate tax credits over different taxable years.

19. Requires a separate request to be submitted for final certification of each renewable energy facility that will be counted toward capital investment requirements.

Miscellaneous

20. Makes technical and conforming changes.

21. Stipulates that utility tax exemption provisions become effective on the last day of the month of the general effective date.

22. Applies provisions relating to renewable energy investment tax credits retroactively to tax year 2015.

<u>Amendments to S.B. 1468 Adopted by Committee of the Whole</u>

1. Establishes the utility relief program and qualifications for international operations centers.

2. Restores existing requirements for exemptions from utility TPT, use tax and municipal taxation for smelting and manufacturing operations.

3. Outlines specific qualifications for international operations centers to receive renewable energy investment tax credits.

4. Establishes investment thresholds for certification as an international operations center, certification revocation criteria and recovery processes for utility relief and renewable energy investment tax credits.

5. Adds retroactive and delayed effective dates.

Senate Action				House Action			
CWD	2/16/15	DPA	7-0-1	APPROP	2/18/15	DPA	10-2-0-2
3rd Read	2/25/15		28-0-2	3rd Read	2/24/15		57-3-0-0

(H.B. 2670 was substituted for S.B. 1468 on 3rd read.)

Signed by the Governor 3/3/15
Chapter 6

Prepared by Senate Research
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DF/jo