House Engrossed

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

HOUSE BILL 2373

AN ACT

AMENDING SECTIONS 41-1520, 42-1108, 42-1124, 42-1125, 42-1126, 42-1129, 42-1251, 42-2075, 42-3401, 42-6013, 42-6209, 43-222 AND 43-1022, ARIZONA REVISED STATUTES; REPEALING SECTION 43-1083.04, ARIZONA REVISED STATUTES; AMENDING SECTION 43-1147, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 106, SECTION 1; AMENDING SECTION 43-1164.05, ARIZONA REVISED STATUTES; RELATING TO TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 41-1520, Arizona Revised Statutes, is amended to read:

41-1520. International operations center; utility relief; certification; revocation; definitions

A. ~~From and after June 30, 2015,~~ Utility relief is allowed for the owner or operator of an international operations center that is certified pursuant to this section.

B. To qualify for the utility relief, the owner or operator must submit to the authority an application in a form prescribed by the authority that includes all of the following:

1. The owner's or operator's name, address and telephone number.

2. The address of the site where the facility is or will be located, including, if applicable, information sufficient to identify the specific portion or portions of the facility comprising the international operations center.

C. Within sixty days after receiving a complete and correct application, the authority shall review the application and either issue a written certification that the international operations center qualifies for the utility relief or provide written reasons for its denial. A failure to approve or deny the application within sixty days after the date of submittal constitutes certification of the international operations center, and the authority shall issue written certification to the owner or operator within fourteen days. The authority shall send a copy of the certification to the department of revenue.

D. The owner or operator of the international operations center must achieve both of the following investment requirements after taking into account the combined investments made by the owner or operator:

1. A minimum annual investment of ~~one hundred million dollars~~ $100,000,000 in new capital assets, including costs of land, buildings and international operations center equipment in each of ten consecutive taxable years of the owner or operator. Investments greater than ~~one hundred million dollars~~ $100,000,000 in any taxable year may be carried forward as a credit toward the investment requirement in future years.

2. On or before the tenth anniversary of certification, a minimum investment of at least ~~one billion two hundred fifty million dollars~~ $1,250,000,000 in new capital assets, including costs of land, buildings and international operations center equipment.

E. Within thirty days after the end of each taxable year following certification, and WITHIN THIRTY DAYS AFTER the tenth anniversary of certification, the owner or operator shall furnish the authority written information demonstrating whether the certified international operations center has or has not satisfied the investment requirements prescribed in subsection D of this section. Until the investment requirements prescribed in subsection D of this section are met, the owner or operator

shall keep detailed records of all capital investment in the international operations center, including costs of land, buildings and international operations center equipment, and all utility relief directly received by the owner or operator.

F. If the authority determines that the requirements of this section have not been satisfied, the authority may revoke the certification of the international operations center and notify the department of revenue in writing. The owner or operator may appeal the revocation. The authority may give special consideration or allow a temporary exception if there is extraordinary hardship due to factors beyond the owner's or operator's control. If certification is revoked, the department of revenue shall order the owner or operator to forfeit further entitlement to utility relief. If the owner or operator fails to make a minimum capital investment of ~~one hundred million dollars~~ $100,000,000 in a taxable year, taking into account any excess investment amounts carried forward from previous years, the owner or operator may avoid revocation of its certification by paying to the department of revenue within sixty days after the end of the taxable year the amount of the utility relief provided pursuant to this section in that year.

G. The authority and the department of revenue shall prescribe forms and procedures as necessary for the purposes of this section.

H. Proprietary business information contained in the application form described in subsection B of this section and the written notice described in subsection F of this section are confidential and may not be disclosed to the public, except that the information shall be transmitted to the department of revenue. The authority or the department of revenue may disclose the name of an international operations center that has been certified pursuant to this section.

I. Except as provided in subsection F of this section, on certification, the international operations center remains certified unless ownership of the international operations center is sold, conveyed, transferred or otherwise directly or indirectly disposed of to another entity in which the original owner holds less than a controlling interest. For the purposes of this subsection, "controlling interest" means at least eighty percent of the voting shares of a corporation or of the interests in a noncorporate entity.

J. An owner or operator may be ~~comprised~~ COMPOSED of a single entity or affiliated entities.

K. For the purposes of this section:

1. "International operations center" means a facility that is subject to the investment thresholds under subsection D of this section and that self-consumes renewable energy from a qualified facility pursuant to ~~section 43-1083.04, subsection C or~~ section 43-1164.05, subsection C.

2. "Utility relief" means the mitigation of the tax burden on the retail purchaser of electricity or natural gas through the application of

section 42-5063, subsection C, paragraph 7, section 42-5159, subsection G, paragraph 2 and section 42-6012, paragraph 2.

Sec. 2. Section 42-1108, Arizona Revised Statutes, is amended to read:

42-1108. Audit; deficiency assessments; electronic filing

A. If a taxpayer fails to file a return required by this title or title 43, or if the department is not satisfied with the return or payment of the amount of tax required to be paid under either title, the department may examine any return, including any books, papers, records or memoranda relating to the return, to determine the correct amount of tax. This examination must occur within the time periods prescribed by section 42-1104 and may be accomplished through a detailed review of transactions or records or by a statistically valid sampling method.

B. The department shall give the taxpayer notice of its determination of a deficiency by mail or as prescribed by subsection C of this section, and the deficiency, plus penalties and interest, is final forty-five days ~~from~~ AFTER the date of receipt of the notice to the taxpayer unless an appeal is taken to the department. For individual income tax, the period is ninety days ~~from~~ AFTER the date of mailing. In the case of a joint income tax return, the notice may be a single joint notice mailed to the last known address, but if either spouse notifies the department that separate residences have been established, the department shall mail duplicate originals of the joint notice to each spouse.

C. Except for individual income tax, the department may issue notice of its determination of a deficiency under subsection B of this section by using an electronic portal in lieu of mail, if all of the requirements of this subsection are met, for taxable periods beginning from and after December 31, 2018 or when the department establishes the electronic portal, whichever is later. The use of the electronic portal in lieu of mail is subject to the following requirements and conditions:

1. The taxpayer shall provide an e-mail address to the department to receive the ~~written~~ notice of its determination of a deficiency using the electronic portal. The taxpayer shall notify the department of any update to the taxpayer's e-mail address.

2. The department shall notify the taxpayer, using the taxpayer's e-mail address, on the same day the notice of its determination of a deficiency is posted to the electronic portal.

3. The date of receipt for a notice provided by electronic portal is the later of the date the notice is posted to the electronic portal or the date the notification is received by the taxpayer. A notification sent by e-mail is considered to be received by the taxpayer on the day it is sent by the department.

D. If a deficiency is determined and the assessment becomes final, the department shall mail notice and demand to the taxpayer for the payment of the deficiency. Notwithstanding section 42-1125, subsection E,

the deficiency assessed is due and payable at the expiration of ten days ~~from~~ AFTER the date of the notice and demand.

E. A certificate by the department of the mailing or e-mailing of the notices specified in this section is prima facie evidence of the assessment of the deficiency and the giving of the notices.

F. Any amount of tax in excess of that disclosed by the return due to a nonaudit adjustment, as listed in subsection G OR H of this section, notice of which has been mailed to the taxpayer, is not a deficiency assessment within the meaning of this section. The taxpayer may not protest or appeal as in the case of a deficiency assessment, based on such a notice, and the assessment or collection of the amount of tax erroneously omitted in the return is not prohibited by this article.

G. An adjustment due to any of the following is considered a nonaudit adjustment:

1. An addition, subtraction, multiplication, division or other mathematical error shown on any return.

2. The failure of the taxpayer to properly compute the tax liability based on the taxable income reported on the return.

3. An incorrect usage or selection of information for a filed return from tax tables, schedules or similar documents provided by the department if the incorrect usage is apparent from the existence of other information on the return.

4. An entry on a return that is inconsistent with an entry on a schedule, form, statement, list or other document filed with the return.

5. An omission of information required on the return to substantiate an entry.

6. An entry on a return of a deduction or credit in an amount that exceeds a statutory limit if the limit is a monetary figure, a percentage, a ratio or a fraction and the items entered into the application of this limit appear on the return, including claiming a deduction or credit that is not authorized by statute for the taxable period.

7. Missing or incorrect taxpayer identification numbers for the purposes of claiming personal exemptions, dependents or credits.

8. An entry of a credit or deduction that requires a preapproval if the credit or deduction has not been preapproved or if the entry is for more than the preapproved amount.

9. An entry of a credit or deduction amount carried forward from a prior year that is outside of the statutory period allowed for the carryforward or is for an amount that is inconsistent with the taxpayer's prior year returns.

H. If a taxpayer that files its return electronically is allowed to input the information from a document into the electronic filing program instead of providing the actual document with the return, the department may request a copy of the document from the taxpayer at any time. If the taxpayer provides the document, the department may adjust the return to

reflect the amounts on the document. If the taxpayer does not provide the requested document within the period provided by the department, the department may deny any deduction, credit or withholding that the document is intended to substantiate. AN ADJUSTMENT MADE PURSUANT TO THIS SUBSECTION IS CONSIDERED A NONAUDIT ADJUSTMENT UNDER SUBSECTION G, PARAGRAPH 4 OF THIS SECTION, EVEN THOUGH THE ACTUAL DOCUMENT IS NOT INCLUDED WITH THE ELECTRONICALLY FILED RETURN IF THE DEPARTMENT REQUESTS THE DOCUMENT WITHIN SIXTY DAYS AFTER THE DUE DATE OF THE RETURN OR THE DATE ON WHICH THE RETURN WAS FILED, WHICHEVER IS LATER.

~~I. For the purposes of this section, "electronic portal" means a secure location on a website established by the department that requires the taxpayer to enter a password to access.~~

Sec. 3. Section 42-1124, Arizona Revised Statutes, is amended to read:

42-1124. Failure to affix stamps or pay or account for tax; forfeiture of commodity; sale of forfeited commodity; effect of seizure and sale; request for administrative hearing; definitions

A. If the department or its authorized agents or representatives discover any luxury subject to tax under chapter 3 of this title to which official stamps have not been affixed as required or on which the tax has not been paid or accounted for, the department or its agent or representative may seize and take possession of the luxury, and it is deemed forfeited to this state. Except as provided in subsection D or E of this section, the department, within a reasonable time thereafter, pursuant to a notice posted on the premises or by publication in a newspaper of general circulation in the county where the sale is to take place, not fewer than five days before the date of sale, shall offer for sale and sell the forfeited luxuries. The department shall pay the proceeds of the sale into the state general fund. The sale shall take place in the county ~~which~~ THAT is most convenient and economical. The department need not offer any property for sale if, in its opinion, the probable cost of sale exceeds the value of the property.

B. The seizure and sale do not relieve any person from the penalties provided for violating this title.

C. The department of revenue may enter into an interagency agreement with the department of transportation for the purpose of carrying out tobacco enforcement under chapter 3 of this title at ports of entry.

D. All ~~cigarettes~~ TOBACCO PRODUCTS that are seized for violations under this title shall be forfeited to this state. All ~~cigarettes~~ TOBACCO PRODUCTS that are forfeited to this state pursuant to section 13-3711, 36-798.06 or 42-3461 or section 44-7111, section 6(b) shall be destroyed. If a distributor defrauds this state by knowingly and intentionally failing to keep or make any record, return, report or

inventory pertaining to ~~cigarettes~~ TOBACCO PRODUCTS, by refusing to pay any luxury tax for ~~cigarettes~~ TOBACCO PRODUCTS subject to tax under chapter 3 of this title or by attempting to evade or defeat any requirement of this title, the distributor shall forfeit to this state all fixtures, equipment and all other materials and personal property that are located on the premises of the distributor. Alternatively, at the request of the department, the distributor may be enjoined by an action commenced by the attorney general or a county attorney in the name of the state from engaging or continuing in any business for which a tax is imposed by this chapter until the tax has been paid and until ~~such~~ THE person has complied with this title.

E. The department may sell or otherwise dispose of any ~~cigarettes~~ TOBACCO PRODUCTS forfeited to this state on such conditions as it deems most advantageous and just under the circumstances, unless ~~such cigarettes~~ THE TOBACCO PRODUCTS are forfeited pursuant to section 13-3711, 36-798.06 or 42-3461 or section 44-7111, section 6(b). The department shall deposit the proceeds of any sales made pursuant to this subsection in the state general fund.

F. The department shall give notice of the seizure and forfeiture of ~~cigarettes~~ TOBACCO PRODUCTS described in this section by personal service or by certified mail to all persons known by the department to have any right, title or interest in the property. Notice shall include a description of the ~~cigarettes~~ TOBACCO PRODUCTS seized, the reason for the seizure and the time and place of the seizure. ~~The following apply to the notice under this subsection:~~

~~1. Except as provided in paragraph 2 of this subsection~~ FOR SEIZURES OF CIGARETTES OF MORE THAN SIXTY-ONE CARTONS OF TWO HUNDRED CIGARETTES EACH OR THE EQUIVALENT IN CIGARETTE COUNT, the department shall post and maintain an online notice of seizure and forfeiture on its website for a period of at least six months, beginning ~~no~~ NOT later than ten business days after the date of the personal service of the notice to a person or the date of the mailing of the notice. The online notice shall display the date on which the department posts the notice to the website, which shall serve as the date of publication of the notice.

~~2. An online notice is not required if the amount of cigarettes seized is less than sixty-one cartons of two hundred cigarettes each.~~

G. Any person whose legal rights, duties or privileges are determined by the notice of seizure and forfeiture may file a request for an administrative hearing with the department on a form prescribed by the department. The request for an administrative hearing shall contain a statement of the petitioner's interest in the ~~cigarettes~~ TOBACCO PRODUCTS and an explanation of why the release or recovery of the ~~cigarettes~~ TOBACCO PRODUCTS is warranted on the ground that the ~~cigarettes~~ TOBACCO PRODUCTS were erroneously or illegally seized.

H. The seizure and forfeiture of ~~cigarettes or other~~ tobacco products by the department is an appealable agency action as defined in section 41-1092 and is governed by title 41, chapter 6, article 10 and section 42-1251, except that:

1. A request for an administrative hearing that is filed under subsection G of this section is deemed to be timely filed if the request is filed with the department within ten days after the date of personal service on the petitioner or the date of mailing the notice to the petitioner. Any person not served personally or by mail shall file the request within ten days after the date of publication of the notice. The failure of a person to file a timely request constitutes a bar to that person's right to any interest in the ~~cigarettes or other~~ tobacco products, except insofar as the rights of that person may be established in an action filed by the department under this chapter.

2. If a request for an administrative hearing is not filed with the department at the expiration of ten days after the notice has been personally served, mailed or published, the department's determination is final. If a timely request for an administrative hearing has been filed with the department, the department shall request a hearing by the office of administrative hearings and the department shall suspend action until the final order of the department has been issued. An order that is issued by the office of administrative hearings ~~shall be~~ IS the final order of the department thirty days after the petitioner receives the decision unless a decision by the director is issued pursuant to section 42-1251. If the director issues a decision, that decision is the final order of the department.

I. For the purposes of this section, "cigarette", ~~and~~ "distributor" AND "TOBACCO PRODUCTS" have the same meanings prescribed in section 42-3001.

Sec. 4. Section 42-1125, Arizona Revised Statutes, is amended to read:

42-1125. Civil penalties; definition

A. If a taxpayer fails to make and file a return for a tax administered pursuant to this article on or before the due date of the return or the due date as extended by the department, unless it is shown that the failure is due to reasonable cause and not due to wilful neglect, four and one-half percent of the tax required to be shown on ~~such~~ THE return shall be added to the tax for each month or fraction of a month elapsing between the due date of the return and the date on which it is filed. The total penalty shall not exceed twenty-five percent of the tax found to be remaining due. The penalty so added to the tax is due and payable on notice and demand from the department. For the purpose of computing the penalty imposed under this subsection, the amount required to be shown as tax on a return shall be reduced by the amount of any part of the tax that is paid on or before the beginning of ~~such~~ THE month and

by the amount of any credit against the tax that may be claimed on the return. If the amount required to be shown as tax on a return is less than the amount shown as tax on ~~such~~ THE return, the penalty described in this subsection shall be applied by substituting ~~such~~ THE lower amount.

B. If a taxpayer fails or refuses to file a return on notice and demand by the department, the taxpayer shall pay a penalty of twenty-five percent of the tax, which is due and payable on notice and demand by the department, in addition to any penalty prescribed by subsection A of this section, unless it is shown that the failure is due to reasonable cause and not due to wilful neglect. This penalty is payable on notice and demand from the department.

C. If a taxpayer fails or refuses to furnish any information requested in writing by the department, the department may add a penalty of twenty-five percent of the amount of any deficiency tax assessed by the department concerning the assessment of which the information was required, unless it is shown that the failure is due to reasonable cause and not due to wilful neglect.

D. If a person fails to pay the amount shown as tax on any return within the time prescribed, a penalty of one-half of one percent, not to exceed a total of ten percent, shall be added to the amount shown as tax for each month or fraction of a month during which the failure continues, unless it is shown that the failure is due to reasonable cause and not due to wilful neglect. If the department determines that the person's failure to pay was due to reasonable cause and not due to wilful neglect and that a payment agreement pursuant to section 42-2057 is appropriate, the department shall not impose the penalty unless the taxpayer fails to comply with the payment agreement. If the taxpayer is also subject to a penalty under subsection A of this section for the same tax period, the total penalties under subsection A of this section and this subsection shall not exceed twenty-five percent. For the purpose of computing the penalty imposed under this subsection:

1. The amount shown as tax on a return shall be reduced by the amount of any part of the tax that is paid on or before the beginning of that month and by the amount of any credit against the tax that may be claimed on the return.

2. If the amount shown as tax on a return is greater than the amount required to be shown as tax on that return, the penalty shall be applied by substituting the lower amount.

E. If a person fails to pay any amount required to be shown on any return that is not so shown within twenty-one calendar days after the date of notice and demand, a penalty of one-half of one percent, not to exceed a total of ten percent, shall be added to the amount of tax for each month or fraction of a month during which the failure continues, unless it is shown that the failure is due to reasonable cause and not due to wilful neglect. If the taxpayer is also subject to penalty under subsection A of

this section for the same tax period, the total penalties under subsection A of this section and this subsection shall not exceed twenty-five percent. For the purpose of computing the penalty imposed under this subsection, any amount required to be shown on any return shall be reduced by the amount of any part of the tax that is paid on or before the beginning of that month and by the amount of any credit against the tax that may be claimed on the return.

F. In the case of a deficiency, for which a determination is made of an additional amount due, that is due to negligence but without intent to defraud, the person shall pay a penalty of ten percent of the amount of the deficiency.

G. If part of a deficiency is due to fraud with intent to evade tax, fifty percent of the total amount of the tax, in addition to the deficiency, interest and other penalties provided in this section, shall be assessed, collected and paid as if it were a deficiency.

H. If the amount, whether determined by the department or the taxpayer, required to be withheld by the employer pursuant to title 43, chapter 4 is not paid to the department on or before the date prescribed for its remittance, the department may add a penalty of twenty-five percent of the amount required to be withheld and paid, unless it is shown that the failure is due to reasonable cause and not due to wilful neglect.

I. A person who, with or without intent to evade any requirement of this article or any lawful administrative rule of the department of revenue under this article, fails to file a return or to supply information required under this article or who, with or without such intent, makes, prepares, renders, signs or verifies a false or fraudulent return or statement or supplies false or fraudulent information shall pay a penalty of not more than ~~one thousand dollars~~ $1,000. This penalty shall be recovered by the department of law in the name of this state by an action in any court of competent jurisdiction.

J. If the taxpayer files what purports to be a return of any tax administered pursuant to this article but that is frivolous or that is made with the intent to delay or impede the administration of the tax laws, that person shall pay a penalty of ~~five hundred dollars~~ $500.

K. If any person who is required to file or provide an information return under this title or title 43 or who is required to file or provide a return or report under chapter 3 of this title fails to file the return or report at the prescribed time or in the manner required, or files a return or report that fails to show the information required, that person shall pay a penalty of ~~one hundred dollars~~ $100 for each month or fraction of a month during which the failure continues unless it is shown that the failure is due to reasonable cause and not due to wilful neglect. The total penalties for each return or report under this subsection shall not exceed ~~five hundred dollars~~ $500.

L. If it appears to the superior court that proceedings before it have been instituted or maintained by a taxpayer primarily for delay or that the taxpayer's position is frivolous or groundless, the court may award damages in an amount not to exceed ~~one thousand dollars~~ $1,000 to this state. Damages so awarded shall be collected as a part of the tax.

M. A person who is required under section 43-413 to furnish a statement to an employee and who wilfully furnishes a false or fraudulent statement, or who wilfully fails to furnish a statement required by section 43-413, is for each such failure subject to a penalty of ~~fifty dollars~~ $50.

N. A person who is required to collect or truthfully account for and pay a tax administered pursuant to this article, including any luxury privilege tax, and who wilfully fails to collect the tax or truthfully account for and pay the tax, or wilfully attempts in any manner to evade or defeat the tax or its payment, is, in addition to other penalties provided by law, liable for a penalty equal to the total amount of the tax evaded, not collected or not accounted for and paid. Except as provided in subsections U, V and W of this section, no other penalty under this section relating to failure to pay tax may be imposed for any offense to which this subsection applies.

O. For reporting periods beginning from and after February 28, 2011, if a taxpayer who is required under section 42-1129 to ~~make payment~~ PAY by electronic funds transfer fails to do so, that taxpayer shall pay a penalty of five percent of the amount of the payment not made by electronic funds transfer unless it is shown that the failure is due to reasonable cause and not due to wilful neglect. For the reporting periods beginning on July 1, 2015, the penalty in this subsection applies to any taxpayer who is required under section 42-3053 to ~~make payment~~ PAY by electronic funds transfer and fails to do so unless it is shown that the failure is due to reasonable cause and not due to wilful neglect.

P. Unless due to reasonable cause and not to wilful neglect:

1. A person who fails to provide that person's taxpayer identification number in any return, statement or other document as required by section 42-1105, subsection A shall pay a penalty of ~~five dollars~~ $5 for each such failure.

2. A person, when filing any return, statement or other document for compensation on behalf of a taxpayer, who fails to include that person's own taxpayer identification number and the taxpayer's identification number shall pay a penalty of ~~fifty dollars~~ $50 for each such failure.

3. A person, when filing any return, statement or other document without compensation on behalf of a taxpayer, who fails to include that person's own taxpayer identification number and the taxpayer's identification number is not subject to a penalty.

No other penalty under this section may be imposed if the only violation is failure to provide taxpayer identification numbers.

Q. If a taxpayer fails to pay the full amount of estimated tax required by title 43, chapter 5, article 6, a penalty is assessed equal to the amount of interest that would otherwise accrue under section 42-1123 on the amount not paid for the period of nonpayment, not exceeding ten percent of the amount not paid. The penalty prescribed by this subsection is in lieu of any other penalty otherwise prescribed by this section and in lieu of interest prescribed by section 42-1123.

R. Beginning January 1, 2015, if a taxpayer continues in business without timely renewing a municipal privilege tax license as prescribed in section 42-5005, subsection D, a civil penalty of up to ~~twenty-five dollars~~ $25 shall be added to the renewal fee for each jurisdiction.

S. The department of law, with the consent of the department of revenue, may compromise any penalty for which it may bring an action under this section.

T. Penalties shall not be assessed under subsection D of this section on additional amounts of tax paid by a taxpayer at the time the taxpayer voluntarily files an amended return. This subsection does not apply if:

1. The taxpayer is under audit by the department.

2. The amended return was filed on demand or request by the department.

U. In addition to other penalties provided by law, a person who knowingly and intentionally does not comply with any requirement under chapter 3 of this title relating to tobacco products shall pay a penalty of ~~one thousand dollars~~ $1,000. A person who knowingly and intentionally does not pay any luxury tax that relates to tobacco products imposed by chapter 3 of this title shall pay a penalty that is equal to ten percent of the amount of the unpaid tax.

V. A manufacturer or importer or a distributor, as defined in section 42-3001, who knowingly and intentionally sells or possesses cigarettes with false manufacturing labels or cigarettes with counterfeit tax stamps, or who obtains cigarettes through the use of a counterfeit license, shall pay the following penalties:

1. For a first violation involving two thousand or more cigarettes, ~~one thousand dollars~~ $1,000.

2. For a subsequent violation involving two thousand or more cigarettes, ~~five thousand dollars~~ $5,000.

W. The civil penalties in this section are in addition to any civil penalty under chapter 3, article 10, 11 or 12 of this title.

X. Notwithstanding subsection A of this section:

1. And except as provided by paragraph 2 of this subsection, the penalty imposed on a taxpayer that fails to make and file a return for tax administered pursuant to chapter 5 or 6 of this title on or before the due

date of the return or the due date as extended by the department, unless it is shown that the failure is due to a reasonable cause and not due to wilful neglect, is four and one-half percent of the tax required to be shown on the return, or ~~twenty-five dollars~~ $25, whichever is greater. The penalty shall be added to the tax for each month or fraction of a month elapsing between the due date of the return and the date on which it is filed. The total penalty may not exceed twenty-five percent of the tax ~~found to be remaining due, or one hundred dollars~~ REQUIRED TO BE SHOWN ON THE RETURN, OR $100, whichever is greater.

2. The penalty imposed on a taxpayer that is required under section 42-5014 to file electronically and that fails to do so is five percent of the ~~amount~~ TAX required to be shown on the return, or ~~twenty-five dollars~~ $25, whichever is greater, unless the failure is due to a reasonable cause and not due to wilful neglect.

3. FOR THE PURPOSES OF THIS SUBSECTION, "TAX REQUIRED TO BE SHOWN ON THE RETURN" MEANS THE TOTAL TAX LIABILITY BEFORE DEDUCTING PAYMENTS.

Y. Notwithstanding subsection B of this section, the penalty imposed on a taxpayer that fails to file a return pursuant to chapter 5 or 6 of this title on notice and demand by the department is twenty-five percent of the tax, or ~~one hundred dollars~~ $100, whichever is greater. The penalty is due and payable on notice and demand by the department, in addition to any penalty prescribed by subsection A of this section, unless it is shown that the failure is due to a reasonable cause and not due to wilful neglect.

Z. For the purposes of this section, and only as applied to the taxes imposed by chapter 5, articles 1 through 6 and chapter 6, articles 1, 2 and 3 of this title, "reasonable cause" means a reasonable basis for the taxpayer to believe that the tax did not apply to the business activity or the storage, use or consumption of the taxpayer's tangible personal property in this state.

Sec. 5. Section 42-1126, Arizona Revised Statutes, is amended to read:

42-1126. Fee for bad checks; definition

A. The department may charge and collect a fee of ~~fifty dollars~~ $50 from a taxpayer that offers a check, draft, negotiable order of withdrawal or similar instrument, or an electronic funds transfer, automated clearing house debit or automated clearing house credit drawn on a bank or other depository institution in full or partial payment of a tax ~~administered pursuant to this article~~ if the instrument, transfer, debit or credit is not paid or is dishonored by the institution.

B. FOR THE PURPOSES OF THIS SECTION, "TAX" INCLUDES ANY TAX, PENALTY, INTEREST OR FEE ADMINISTERED PURSUANT TO THIS ARTICLE.

Sec. 6. Section 42-1129, Arizona Revised Statutes, is amended to read:

42-1129. Payment of tax by electronic funds transfer

A. The department may require by rule, consistent with the state treasurer's cash management policies, that any tax administered pursuant to this article, except FOR individual income tax OR AS REQUIRED UNDER SECTION 42-3053, be paid on or before the payment date prescribed by law in monies that are immediately available to ~~the~~ THIS state on the date of the transfer as provided by subsection B of this section by any taxpayer that owes:

1. ~~Twenty thousand dollars~~ $20,000 or more for any taxable year ~~ending~~ BEGINNING before January 1, 2019.

2. ~~Ten thousand dollars~~ $10,000 or more for any taxable year beginning from and after December 31, 2018 through December 31, 2019.

3. ~~Five thousand dollars~~ $5,000 or more for any taxable year beginning from and after December 31, 2019 through December 31, 2020.

4. ~~Five hundred dollars~~ $500 or more for any taxable year beginning from and after December 31, 2020.

B. A payment in immediately available monies shall be made by electronic funds transfer, with the state treasurer's approval, that ensures the availability of the monies to this state on the date of payment.

C. A taxpayer may apply to the director, on a form prescribed by the department, for an annual waiver from the electronic payment requirement prescribed by subsection B of this section. The application must be received by the department on or before December 31. The director may grant the waiver, which may be renewed, if any of the following applies:

1. The taxpayer has no computer.

2. The taxpayer has no internet access.

3. Any other circumstance considered to be worthy by the director EXISTS, including the taxpayer having a sustained record of timely payments and no delinquent tax account with the department.

D. The taxpayer shall furnish evidence as prescribed by the department that an electronic payment was remitted on or before the due date.

E. A taxpayer who is required to ~~make payment~~ PAY by electronic funds transfer but who fails to do so may be subject to the civil penalties prescribed by section 42-1125, subsection O.

F. A failure to make a timely payment in immediately available monies as prescribed pursuant to this section is subject to the civil penalties prescribed by section 42-1125, subsection D.

Sec. 7. Section 42-1251, Arizona Revised Statutes, is amended to read:

42-1251. Appeal to the department; hearing

A. Except in the case of individual income taxes, a person from whom an amount is determined to be due under article 3 of this chapter may apply to the department by a petition in writing within forty-five days after the notice of a proposed assessment made pursuant to section 42-1109, subsection B or the notice required by section 42-1108, subsection B is received, or within such additional time as the department may allow, for a hearing, correction or redetermination of the action taken by the department. In the case of individual income taxes, the period is ninety days ~~from~~ AFTER the date the notice is mailed. The petition shall set forth the reasons why the hearing, correction or redetermination should be granted and the amount in which any tax, interest and penalties should be reduced. If only a portion of the deficiency assessment is protested, all unprotested amounts of tax, interest and penalties must be paid at the time the protest is filed. The department shall consider the petition and grant a hearing, if requested. To represent the taxpayer at the hearing or to appear on the taxpayer's behalf is deemed not to be the practice of law.

B. Except in the case of individual income taxes, at any time during which an appeal to the department under subsection A of this section is pending, a person that has conferred with a designated appeals officer of the department to clarify any fact or legal issue in dispute and to discuss the availability of additional documentation that may assist in resolving outstanding issues may bypass the hearing process before the DEPARTMENT'S HEARING OFFICER OR THE office of administrative hearings and either:

1. Appeal to the state board of tax appeals by filing a notice of appeal in writing pursuant to section 42-1253, subsection A.

2. Bring an action in tax court by filing a notice of appeal in writing pursuant to section 42-1254, subsection C.

C. If the department fails to schedule a meeting within forty-five days ~~of~~ AFTER the time a person files a written request with the department to confer with a designated appeals officer about bypassing the hearing process before the DEPARTMENT'S HEARING OFFICER OR THE office of administrative hearings, the person may bypass the meeting and appeal directly to the STATE board of tax appeals or bring an action in tax court.

D. If the taxpayer does not file a petition for hearing, correction, redetermination or appeal within the period provided by subsection A, B or C of this section, the amount determined to be due becomes final at the expiration of the period. The taxpayer is deemed to have waived and abandoned the right to question the amount determined to be due, unless the taxpayer pays the total deficiency assessment,

including interest and penalties. The taxpayer may then file a claim for refund pursuant to section 42-1118 within six months after ~~payment of~~ PAYING the deficiency assessment or within the time limits prescribed by section 42-1106, whichever period expires later.

E. All orders or decisions made on the filing of a petition for a hearing, correction or redetermination under subsection A of this section become final thirty days after notice has been received by the petitioner, unless the petitioner appeals the order or decision to the state board of tax appeals.

Sec. 8. Section 42-2075, Arizona Revised Statutes, is amended to read:

42-2075. Audit duration; applicability; initial audit contact

A. An audit of a taxpayer's return or claim for refund shall not exceed two years ~~from~~ AFTER the date of initial audit contact to the issuance of a notice of proposed deficiency assessment or proposed overpayment, except:

1. An audit of a fraudulent tax return.

2. An audit delayed as the result of the taxpayer's bankruptcy proceeding.

3. An audit in which the department has issued a letter to the taxpayer or the taxpayer's representative citing the potential imposition of the penalty described in section 42-1125, subsection C for the taxpayer's failure or refusal to provide information pursuant to the department's written request.

4. An audit involving proceedings concerning the enforcement or validity of a subpoena or subpoena duces tecum issued pursuant to section 42-1006, subsection C.

5. An audit involving a proceeding under section 42-2056.

6. An audit in which a taxpayer has filed a petition pursuant to section 43-1148, but only in relation to the effect of the petition request.

7. An audit in which the taxpayer provides a written request to extend the audit beyond the two-year period. A request for extension under this paragraph is not a substitute for a waiver of the statute of limitations pursuant to section 42-1104, subsection B, paragraph 9. However, a waiver of the statute of limitations is considered to be a written request to extend the audit beyond the two-year period under this paragraph.

B. This section applies to audits conducted by the department and to audits conducted by the department and cities and towns pursuant to section 42-6002.

C. For the purposes of subsection A of this section, an initial audit contact occurs:

1. For a field audit, on the date of the first meeting between the taxpayer or the taxpayer's representative and a member of the department's audit staff.

2. For a desk or office audit or a review conducted pursuant to section 42-1109, on the date of the first letter to the taxpayer regarding the audit or review. A letter is not considered to be regarding the audit or review if the letter is only requesting one or more of the following:

(a) The required filing of a tax return.

(b) A copy of the taxpayer's federal return.

(c) Required documents that the taxpayer failed to include with the return.

(d) Documentation to resolve an inconsistency within the return or a discrepancy between the return and other information that is received from a third party or that is otherwise already in the department's possession, if the adjustment of the return due to the inconsistency or discrepancy would be considered a nonaudit adjustment under section 42-1108, subsection G OR H.

(e) Information that was left out of the taxpayer's return because a submitted form was incomplete.

(f) Replacements for documents that are not legible.

Sec. 9. Section 42-3401, Arizona Revised Statutes, is amended to read:

42-3401. Tobacco distributor licenses; application; conditions; revocations, suspensions and cancellations

A. Every person acquiring or possessing for the purpose of making the initial sale or distribution in this state of any tobacco products on which a tax is imposed by this chapter shall obtain from the department a license to sell tobacco products. The application for the license shall be in the form provided by the department and shall be accompanied by a fee of ~~twenty-five dollars~~ $25 for each place of business listed in the application. The form shall state that the identity of the applicant will be posted to the department's website for public inspection. The application for a license shall include the applicant's name and address, the applicant's principal place of business, all other places of business where the applicant's business is conducted for the purpose of making the initial sale or distribution of tobacco products in this state, including any location that maintains an inventory of tobacco products, and any other information required by the department. If the applicant is a firm, partnership, limited liability company, limited liability partnership or association, the applicant shall list the name and address of each of the applicant's members. If the applicant is a corporation, the application shall list the name and address of the applicant's officers and any person who directly or indirectly owns an aggregate amount of ten percent or more of the ownership interest in the corporation. If a licensee is a

corporation, firm, partnership, limited liability company, limited liability partnership or association, the licensee under this subsection shall notify the department in writing within thirty days after any change in membership, legal entity status or ownership of more than fifty percent of the total ownership interest in a single transaction. If a licensee changes its business location, the licensee under this subsection shall notify the department within thirty days after a change in location. If the licensee is making a change in its business location by adding or replacing one or more additional places of business that are not currently listed on its application, the licensee must remit a fee of ~~twenty-five dollars~~ $25 for each additional place of business.

B. For the purposes of subsection A of this section, an applicant with a controlling interest in more than one business engaged in activities as a distributor shall apply for a single license encompassing all such businesses and list each place of business in its application. For the purposes of this subsection, "controlling interest" means direct or indirect ownership of at least eighty percent of the voting shares of a corporation or of the interests in a company, business or person other than a corporation.

C. The department shall issue a license authorizing the applicant to acquire or possess tobacco products in this state on the condition that the applicant complies with this chapter and the rules of the department. The license:

1. Shall be nontransferable. A licensee may not transfer its license to a new owner when selling its business, and any court-appointed trustee, receiver or other person shall obtain a license in its own name in cases of liquidation, insolvency, or bankruptcy or pursuant to a court order if the business remains in operation as a distributor of tobacco products. A licensee shall apply for a new license if it changes its legal entity status or otherwise changes the legal structure of its business.

2. Shall be valid for one year unless earlier CANCELED OR revoked by the department.

3. Shall be displayed in a conspicuous place at the licensee's place of business. If the licensee operates from more than one place of business, the licensee must display a copy of its license in a conspicuous place at each location.

D. As a condition of licensure under this section, an applicant agrees to the following conditions:

1. A person may not hold or store any tobacco products, whether within or outside of this state, for sale or distribution in this state by or on behalf of a distributor at any place other than a location that has been disclosed to the department pursuant to subsection A of this section. This paragraph does not include a person holding or storing tobacco

products by or on behalf of the distributor when the tobacco products are in transit to a distributor or retailer as part of a lawful sale.

2. All tobacco products held or stored, whether within or outside of this state, for sale or distribution in this state by or on behalf of a distributor:

(a) Shall be accessible to the department during normal business hours without a judicial warrant or prior written consent of the distributor.

(b) May not be held or stored at a residential location or in a vehicle.

E. A person who is convicted of an offense described in section 42-1127, subsection E is permanently ineligible to hold a license issued under this section.

F. The department may not issue or renew a license to an applicant and may revoke a license issued under subsection C of this section if any of the following applies:

1. The applicant or licensee owes ~~one thousand dollars~~ $1,000 or more in delinquent taxes imposed on tobacco products under this chapter that are not under protest or subject to a payment agreement.

2. The department has revoked any license held by the applicant or licensee within the previous two years.

3. The applicant or licensee has been convicted of a crime that relates to stolen or counterfeit cigarettes.

4. The applicant or licensee has imported cigarettes into the United States for sale or distribution in violation of 19 United States Code section 1681a.

5. The applicant or licensee has imported cigarettes into the United States for sale or distribution without fully complying with the federal cigarette labeling and advertising act (P.L. 89-92; 79 Stat. 282; 15 United States Code section 1331).

6. The applicant or licensee is in violation of section 13-3711 or section 36-798.06, subsection A.

7. Pursuant to section 44-7111, section 6(a), the applicant or licensee is in violation of section 44-7111, section 3(c).

8. The civil rights of the applicant or licensee have been suspended under section 13-904. An applicant or licensee whose civil rights have been suspended ~~will be~~ IS ineligible to hold a license for a period of five years following the restoration of the applicant's or licensee's civil rights.

G. In addition to any other civil or criminal penalty and except as otherwise provided in this section, the department may deny the issuance or renewal of or suspend or revoke a license issued under subsection C of this section if the person violates any requirement under this title more than two times within a three-year period or fails to otherwise maintain the conditions of licensure in this section.

H. The department shall publish on its website the names of each person who is issued a license under subsection C of this section, including any trade names or business names used by the licensee. The department shall update the published names at least once each month.

I. A person may not apply for or hold a distributor's license if that person does not engage in the activities described in subsection A of this section. In addition to any other applicable penalty, the department may cancel the license of any licensee that fails to incur any tax liability under this chapter for twelve consecutive months.

J. Any suspension, revocation, cancellation or denial of a license issued under this section by the department must comply with section 41-1092.11, subsection B.

K. Notwithstanding any other law, for the purposes of subsection F, paragraphs 1 and 2 of this section, section 42-1127, subsection C and section 42-3461, subsection B, if a distributor has listed in its application more than one place of business, any suspension, revocation, cancellation, denial or nonrenewal of the distributor's license shall apply only with effect to remove the place of business or business location at which the activity occurred from the distributor's license. If such a removal occurs, the distributor shall be subject to restrictions that the department prescribes by rule.

Sec. 10. Section 42-6013, Arizona Revised Statutes, is amended to read:

42-6013. Electronic consolidated real property management tax returns; definition

A. For taxable periods beginning from and after December 31, 2017, a city or town that levies a transaction privilege tax under this section shall allow persons who are licensed pursuant to title 32, chapter 20 and who are licensed with the department pursuant to section 42-5005, subsection M to file electronic consolidated tax returns with the department with respect to gross proceeds or gross income derived from the individual properties under management on behalf of the property owners, subject to the following conditions and requirements:

1. The department shall administer, collect and enforce the tax that is reported and paid pursuant to an electronic consolidated return and remit the collected revenues to the appropriate city or town.

2. The tax may not be collected from any property owner whose licensee has provided written documentation to the property owner and to the city or town that the licensee has reported and remitted or will report and remit the applicable tax with respect to the property under management.

3. The department shall develop an electronic consolidated return form that separately identifies each owner's property locations and the gross income and deductions for each property location. The licensee

shall file the return electronically using the consolidated return form developed by the department.

4. All participating property owners included in the same electronic consolidated return must be on the same tax payment schedule and use the same cash receipts or accrual basis of reporting.

5. A licensee filing an electronic consolidated return:

(a) Acts in a fiduciary capacity as the property owners' agent.

(b) Is responsible and accountable to the property owners and to the city or town for fully and accurately reporting and paying to the department the tax and any other amounts due.

(c) Is subject to audit, as provided by law, of the electronic consolidated returns, including data in the licensee's possession that is used in compiling and filing the electronic consolidated returns.

(d) NOTWITHSTANDING SECTION 42-1129, SUBSECTION A, SHALL REMIT THE APPLICABLE TAX IN MONIES THAT ARE IMMEDIATELY AVAILABLE TO THIS STATE ON THE DATE OF THE TRANSFER IN ACCORDANCE WITH SECTION 42-1129, SUBSECTION B.

6. A property owner:

(a) Remains ultimately responsible, accountable and liable for both:

(i) The accuracy of information the property owner furnishes to the licensee.

(ii) The return and payment of the full tax liability, INCLUDING ANY PENALTIES PRESCRIBED BY SECTION 42-1125.

(b) Is subject to audit, as provided by law, of the records in the property owner's possession that are submitted to the licensee for the purposes of the electronic consolidated return.

(c) May withdraw any of the property owner's properties from the electronic consolidated return on thirty days' written notice to the licensee, the department and the tax collector of the city or town.

B. For the purposes of this section, "licensee" means a person who is licensed pursuant to title 32, chapter 20 and who is licensed with the department pursuant to section 42-5005, subsection M.

Sec. 11. Section 42-6209, Arizona Revised Statutes, is amended to read:

42-6209. Abatement of tax for government property improvements in single central business district; definition

A. A city or town may abate the tax provided for under this article for a limited period beginning when the certificate of occupancy is issued and ending eight years after the certificate of occupancy is issued on a government property improvement that is constructed either before or after July 20, 1996 and that meets the following requirements:

1. The improvement is located in a single central business district in the city or town and is subject to a lease or development agreement entered into on or after April 1, 1985. For the purposes of this section:

(a) A city or town shall not designate more than one central business district within its corporate boundaries.

(b) A city or town shall not approve or enter into a development agreement or lease for a government property improvement within one year after the designation of the central business district in which the improvement is located.

(c) "Central business district" means a single and contiguous geographical area that is designated by resolution of the governing body of the city or town and that is geographically compact and not larger than the greatest of the existing total land area of the central business district of the city or town as of January 1, 2018, two and one-half percent of the total land area within the exterior boundaries of the city or town or nine hundred sixty acres. For the purposes of this subdivision, any central business district formed before January 1, 2018 is considered to be geographically compact. For the expanded areas of an existing central business district only and the new designation of a central business district formed on or after January 1, 2018 and for the purposes of this subdivision, "geographically compact" means a form or shape that has a length that is not more than twice its width as measured from at least four points on the exterior boundary of the expanded areas of an existing central business district or a central business district formed on or after January 1, 2018.

2. The improvement is located entirely within a slum or blighted area that is ~~established~~ DESIGNATED pursuant to title 36, chapter 12, article 3.

3. The government property improvement resulted or will result in an increase in property value of at least one hundred percent.

B. The prime lessee shall notify the county treasurer and the government lessor and apply for the abatement before the taxes under this article are due and payable in the first year after the certificate of occupancy is issued.

C. Except as provided by subsection D of this section, each lease between a prime lessee and a government lessor for which the tax is abated under this section ~~and~~ that is entered into from and after May 31, 2010, and that does not meet the conditions provided in section 42-6203, subsection A~~,~~ must be approved by a simple majority vote of the governing body without ~~the use of~~ USING a consent calendar and shall not be approved unless:

1. The government lessor notifies the governing bodies of the county and any city, town and school district in which the government property improvement is located at least sixty days before the approval. The notice must include the name and address of the intended prime lessee, the location and proposed use of the government property improvement and the proposed term of the lease or development agreement.

2. The government lessor determines that, within the term of the lease or development agreement, the economic and fiscal benefit to this state and the county, city or town in which the government property improvement is located will exceed the benefits received by the prime lessee as a result of the development agreement or lease on the basis of an estimate of those benefits prepared by an independent third party in a manner and method acceptable to the governing body of the government lessor. The estimate must be provided to the government lessor and the governing bodies of the county and any city, town and school district in which the government property improvement is located at least thirty days before the vote of the governing body. A lease or development agreement between a prime lessee and a government lessor involving residential rental housing is exempt from the economic estimate analysis requirements of this paragraph.

3. The lease or development agreement provides that the government lessor may not approve an amendment to change the use of the government property improvement during the period of abatement unless:

(a) The government lessor notifies the governing bodies of the county and any city, town and school district in which the government property improvement is located at least sixty days before the approval. The notice must include the name and address of the prime lessee, the location and proposed use of the government property improvement and the remaining term of the lease or development agreement.

(b) The government lessor determines that, within the remaining term of the lease or development agreement, the economic and fiscal benefit to this state and the county, city or town in which the government property improvement is located will exceed the benefits received by the prime lessee as a result of the change in the lease or development agreement on the basis of an estimate of those benefits prepared by an independent third party in a manner and method acceptable to the governing body of the government lessor. The estimate must be provided to the government lessor and the governing bodies of the county and any city, town and school district in which the government property improvement is located at least thirty days before the vote of the governing body. A change in use under a lease or development agreement between a prime lessee and a government lessor to residential rental housing is exempt from the economic estimate analysis requirements of this subdivision.

D. Subsection C of this section does not apply if:

1. The tax is not abated under this section.

2. The government lessor is acting as a commercial landlord without a development agreement in a lease for a use ancillary to a government property improvement used for a public purpose.

E. THE DESIGNATION OF a slum or blighted area that is originally designated from and after September 30, 2018 and in which a central business district is located automatically terminates on the tenth

anniversary after ~~its~~ THE designation unless the city or town formally renews or modifies all or part of the slum or blighted area designation. The termination of a slum or blighted area DESIGNATION under this subsection does not affect any existing project described in section 35-701, paragraph 7, subdivision (a), item ~~(xi)~~ (ix) that is within the designated area. Before the tenth anniversary of its designation, the city or town shall review the area and, pursuant to the review, shall either renew, modify or terminate the designation. If the city or town renews or modifies the original designation, the slum or blighted area designation is subject to subsequent reviews on a ten-year cycle. If the city or town fails to renew or modify the designation, the slum or blighted area designation automatically terminates five years after the review. This subsection does not apply to leases or development agreements ~~for the~~ TO lease ~~of~~ government property if either of the following conditions ~~are~~ IS met with respect to any such excluded area:

1. The lease of the government property improvement was entered into before the termination or modification of the slum or blighted area designation.

2. A development agreement, ordinance or resolution was approved by the governing body of the government lessor before the termination or modification of the slum or blighted area designation that authorized a lease on the occurrence of specified conditions and the lease was entered into within five years after the date the development agreement was entered into or the ordinance or resolution was approved by the governing body.

F. Before October 1, 2020, each city or town shall review THE DESIGNATION OF each slum or blighted area that was originally designated before September 30, 2018 and in which a central business district is located. All such slum or blighted areas in which a central business district is located are considered to be valid. Pursuant to the review, the city or town shall either renew, modify or terminate the designation. If the city or town renews or modifies the original designation, the slum or blighted area designation is subject to subsequent reviews on a ten-year cycle. If the city or town fails to renew or modify the designation, the slum or blighted area designation automatically terminates from and after September 30, 2025, or five years after any subsequent review. The termination of a slum or blighted area designation under this subsection does not affect:

1. Any existing project described in section 35-701, paragraph 7, subdivision (a), item (ix) that is within the designated area.

2. Any lease or development agreement ~~for the~~ TO lease ~~of~~ government property if either of the following conditions ~~are~~ IS met with respect to the slum or blighted area:

(a) The lease of the government property improvement was entered into before the termination or modification of the slum or blighted area designation.

(b) A development agreement, ordinance or resolution was approved by the governing body of the government lessor before the termination or modification of the slum or blighted area designation that authorized a lease on the occurrence of specified conditions and the lease was entered into within five years after the date the development agreement was entered into or the ordinance or resolution was approved by the governing body.

G. Notwithstanding section 42-6206, subsection C, beginning with development agreements, ordinances or resolutions ~~for the~~ TO lease ~~of~~ government property improvements approved by the governing body of the government lessor from and after December 31, 2016, the lease period for a property for which the tax is abated under this section may not exceed eight years, including any abatement period, regardless of whether the lease is transferred or conveyed to subsequent prime lessees during that period. As soon as reasonably practicable but within twelve months after the expiration date of the lease, the government lessor must convey to the current prime lessee title to the government property improvement and the underlying land. Property conveyed to the prime lessee under this subsection does not qualify for classification as class six property or for any other discounted assessment regardless of the location or condition of the property. This subsection does not apply to leases or ~~the~~ development agreements ~~for the~~ TO lease ~~of~~ government property if either of the following occurred before January 1, 2017:

1. A corresponding resolution or ordinance for the lease or intent to lease such property subject to this section was approved by the governing body of the government lessor.

2. A proposal was submitted to the government lessor in response to a request for proposals.

Sec. 12. Section 43-222, Arizona Revised Statutes, is amended to read:

43-222. Income tax credit review schedule

The joint legislative income tax credit review committee shall review the following income tax credits:

1. For years ending in 0 and 5, sections 43-1079.01, 43-1087, 43-1088, 43-1089.04, 43-1167.01 and 43-1175.

2. For years ending in 1 and 6, sections 43-1072.02, 43-1074.02, 43-1083, 43-1083.02, 43-1164.03 and 43-1183.

3. For years ending in 2 and 7, sections 43-1073, 43-1080, 43-1085, 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1089.03, 43-1164, 43-1169 and 43-1181.

4. For years ending in 3 and 8, sections 43-1074.01, 43-1081, 43-1168, 43-1170 and 43-1178.

5. For years ending in 4 and 9, sections 43-1076, 43-1081.01, ~~43-1083.04,~~ 43-1084, 43-1162, 43-1164.05, 43-1170.01 and 43-1184 and, beginning in 2019, sections 43-1083.03 and 43-1164.04.

Sec. 13. Section 43-1022, Arizona Revised Statutes, is amended to read:

43-1022. Subtractions from Arizona gross income

In computing Arizona adjusted gross income, the following amounts shall be subtracted from Arizona gross income:

1. The amount of exemptions allowed by section 43-1023.

2. Benefits, annuities and pensions in an amount totaling not more than ~~two thousand five hundred dollars~~ $2,500 received from one or more of the following:

(a) The United States government service retirement and disability fund, the United States foreign service retirement and disability system and any other retirement system or plan established by federal law, EXCEPT RETIRED OR RETAINER PAY OF THE UNIFORMED SERVICES OF THE UNITED STATES THAT QUALIFY FOR A SUBTRACTION UNDER PARAGRAPH 30 OF THIS SECTION.

(b) The Arizona state retirement system, the corrections officer retirement plan, the public safety personnel retirement system, the elected officials' retirement plan, an optional retirement program established by the Arizona board of regents under section 15-1628, an optional retirement program established by a community college district board under section 15-1451 or a retirement plan established for employees of a county, city or town in this state.

3. A beneficiary's share of the fiduciary adjustment to the extent that the amount determined by section 43-1333 decreases the beneficiary's Arizona gross income.

4. Interest income received on obligations of the United States, ~~less~~ MINUS any interest on indebtedness, or other related expenses, and deducted in arriving at Arizona gross income, ~~which~~ THAT were incurred or continued to purchase or carry such obligations.

5. The excess of a partner's share of income required to be included under section 702(a)(8) of the internal revenue code over the income required to be included under chapter 14, article 2 of this title.

6. The excess of a partner's share of partnership losses determined pursuant to chapter 14, article 2 of this title over the losses allowable under section 702(a)(8) of the internal revenue code.

7. The amount allowed by section 43-1025 for contributions during the taxable year of agricultural crops to charitable organizations.

8. The portion of any wages or salaries paid or incurred by the taxpayer for the taxable year that is equal to the amount of the federal work opportunity credit, the empowerment zone employment credit, the credit for employer paid social security taxes on employee cash tips and the Indian employment credit that the taxpayer received under sections 45A, 45B, 51(a) and 1396 of the internal revenue code.

9. The amount of prizes or winnings less than ~~five thousand dollars~~ $5,000 in a single taxable year from any of the state lotteries established and operated pursuant to title 5, chapter 5.1, article 1.

10. The amount of exploration expenses that is determined pursuant to section 617 of the internal revenue code, that has been deferred in a taxable year ending before January 1, 1990 and for which a subtraction has not previously been made. The subtraction shall be made on a ratable basis as the units of produced ores or minerals discovered or explored as a result of this exploration are sold.

11. The amount included in federal adjusted gross income pursuant to section 86 of the internal revenue code, relating to taxation of social security and railroad retirement benefits.

12. To the extent not already excluded from Arizona gross income under the internal revenue code, compensation received for active service as a member of the reserves, the national guard or the armed forces of the United States, including compensation for service in a combat zone as determined under section 112 of the internal revenue code.

13. The amount of unreimbursed medical and hospital costs, adoption counseling, legal and agency fees and other nonrecurring costs of adoption not to exceed ~~three thousand dollars~~ $3,000. In the case of a husband and wife who file separate returns, the subtraction may be taken by either taxpayer or may be divided between them, but the total subtractions allowed both husband and wife shall not exceed ~~three thousand dollars~~ $3,000. The subtraction under this paragraph may be taken for the costs that are described in this paragraph and that are incurred in prior years, but the subtraction may be taken only in the year during which the final adoption order is granted.

14. The amount authorized by section 43-1027 for the taxable year relating to qualified wood stoves, wood fireplaces or gas fired fireplaces.

15. The amount by which a net operating loss carryover or capital loss carryover allowable pursuant to section 43-1029, subsection F exceeds the net operating loss carryover or capital loss carryover allowable pursuant to section 1341(b)(5) of the internal revenue code.

16. Any amount of qualified educational expenses that is distributed from a qualified state tuition program determined pursuant to section 529 of the internal revenue code and that is included in income in computing federal adjusted gross income.

17. Any item of income resulting from an installment sale that has been properly subjected to income tax in another state in a previous taxable year and that is included in Arizona gross income in the current taxable year.

18. The amount authorized by section 43-1030 relating to holocaust survivors.

19. For property placed in service:

(a) In taxable years beginning before December 31, 2012, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year computed as if the election described in section 168(k)(2)(D)(iii) of the internal revenue code had been made for each applicable class of property in the year the property was placed in service.

(b) In taxable years beginning from and after December 31, 2012 through December 31, 2013, an amount determined in the year the asset was placed in service based on the calculation in subdivision (a) of this paragraph. In the first taxable year beginning from and after December 31, 2013, the taxpayer may elect to subtract the amount necessary to make the depreciation claimed to date for the purposes of this title the same as it would have been if subdivision (c) of this paragraph had applied for the entire time the asset was in service. Subdivision (c) of this paragraph applies for the remainder of the asset's life. If the taxpayer does not make the election under this subdivision, subdivision (a) of this paragraph applies for the remainder of the asset's life.

(c) In taxable years beginning from and after December 31, 2013 through December 31, 2015, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year as computed as if the additional allowance for depreciation had been ten percent of the amount allowed pursuant to section 168(k) of the internal revenue code.

(d) In taxable years beginning from and after December 31, 2015 through December 31, 2016, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year as computed as if the additional allowance for depreciation had been fifty-five percent of the amount allowed pursuant to section 168(k) of the internal revenue code.

(e) In taxable years beginning from and after December 31, 2016, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year as computed as if the additional allowance for depreciation had been the full amount allowed pursuant to section 168(k) of the internal revenue code.

20. With respect to property that is sold or otherwise disposed of during the taxable year by a taxpayer that complied with section 43-1021, paragraph 14 with respect to that property, the amount of depreciation that has been allowed pursuant to section 167(a) of the internal revenue code to the extent that the amount has not already reduced Arizona taxable income in the current or prior taxable years.

21. The amount contributed during the taxable year to college savings plans established pursuant to section 529 of the internal revenue code to the extent that the contributions were not deducted in computing federal adjusted gross income. The amount subtracted shall not exceed:

(a) ~~Two thousand dollars~~ $2,000 for a single individual or a head of household.

(b) ~~Four thousand dollars~~ $4,000 for a married couple filing a joint return. In the case of a husband and wife who file separate returns, the subtraction may be taken by either taxpayer or may be divided between them, but the total subtractions allowed both husband and wife shall not exceed ~~four thousand dollars~~ $4,000.

22. The amount of any original issue discount that was deferred and not allowed to be deducted in computing federal adjusted gross income in the current taxable year pursuant to section 108(i) of the internal revenue code as added by section 1231 of the American recovery and reinvestment act of 2009 (P.L. 111-5).

23. The amount of previously deferred discharge of indebtedness income that is included in the computation of federal adjusted gross income in the current taxable year pursuant to section 108(i) of the internal revenue code as added by section 1231 of the American recovery and reinvestment act of 2009 (P.L. 111-5), to the extent that the amount was previously added to Arizona gross income pursuant to section 43-1021, paragraph 16.

24. The portion of the net operating loss carryforward that would have been allowed as a deduction in the current year pursuant to section 172 of the internal revenue code if the election described in section 172(b)(1)(H) of the internal revenue code had not been made in the year of the loss that exceeds the actual net operating loss carryforward that was deducted in arriving at federal adjusted gross income. This subtraction only applies to taxpayers who made an election under section 172(b)(1)(H) of the internal revenue code as amended by section 1211 of the American recovery and reinvestment act of 2009 (P.L. 111-5) or as amended by section 13 of the worker, homeownership, and business assistance act of 2009 (P.L. 111-92).

25. For taxable years beginning from and after December 31, 2013, the amount of any net capital gain included in federal adjusted gross income for the taxable year derived from investment in a qualified small business as determined by the Arizona commerce authority pursuant to section 41-1518.

26. An amount of any net long-term capital gain included in federal adjusted gross income for the taxable year that is derived from an investment in an asset acquired after December 31, 2011, as follows:

(a) For taxable years beginning from and after December 31, 2012 through December 31, 2013, ten percent of the net long-term capital gain included in federal adjusted gross income.

(b) For taxable years beginning from and after December 31, 2013 through December 31, 2014, twenty percent of the net long-term capital gain included in federal adjusted gross income.

(c) For taxable years beginning from and after December 31, 2014, twenty-five percent of the net long-term capital gain included in federal adjusted gross income. For the purposes of this paragraph, a transferee that receives an asset by gift or at the death of a transferor is considered to have acquired the asset when the asset was acquired by the transferor. If the date an asset is acquired cannot be verified, a subtraction under this paragraph is not allowed.

27. If an individual is not claiming itemized deductions pursuant to section 43-1042, the amount of premium costs for long-term care insurance, as defined in section 20-1691.

28. The amount of eligible access expenditures paid or incurred during the taxable year to comply with the requirements of the Americans with disabilities act of 1990 (P.L. 101-336) or title 41, chapter 9, article 8 as provided by section 43-1024.

29. For taxable years beginning from and after December 31, 2017, the amount of any net capital gain included in Arizona gross income for the taxable year that is derived from the exchange of one kind of legal tender for another kind of legal tender. For the purposes of this paragraph:

(a) "Legal tender" means a medium of exchange, including specie, that is authorized by the United States Constitution or Congress ~~for the payment of~~ TO PAY debts, public charges, taxes and dues.

(b) "Specie" means coins having precious metal content.

30. Benefits, annuities and pensions received as retired or retainer pay of the uniformed services of the United States in amounts as follows:

(a) For taxable years through December 31, 2018, an amount totaling not more than ~~two thousand five hundred dollars~~ $2,500.

(b) For taxable years beginning from and after December 31, 2018, an amount totaling not more than ~~three thousand five hundred dollars~~ $3,500.

Sec. 14. Repeal

Section 43-1083.04, Arizona Revised Statutes, is repealed.

Sec. 15. Section 43-1147, Arizona Revised Statutes, as amended by Laws 2018, chapter 106, section 1, is amended effective from and after December 31, 2019,to read:

43-1147. Situs of sales of other than tangible personal property; definitions

A. Except as provided by subsection B of this section, sales, other than sales of tangible personal property, are in this state if either of the following applies:

1. The income-producing activity is performed in this state.

2. The income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is

performed in this state than in any other state, based on costs of performance.

B. For taxable years beginning from and after December 31, 2013, a multistate service provider may elect to treat sales from services as being in this state based on a combination of income-producing activity sales and market sales. If the election under this subsection is made pursuant to subsection C of this section, the sales of services that are in this state shall be determined for taxable years beginning from and after:

1. December 31, 2013 through December 31, 2014, by the sum of the following:

(a) Eighty-five percent of the market sales.

(b) Fifteen percent of the income-producing activity sales.

2. December 31, 2014 through December 31, 2015, by the sum of the following:

(a) Ninety percent of the market sales.

(b) Ten percent of the income-producing activity sales.

3. December 31, 2015 through December 31, 2016, by the sum of the following:

(a) Ninety-five percent of the market sales.

(b) Five percent of the income-producing activity sales.

4. December 31, 2016, by one hundred percent of the market sales.

C. A multistate service provider may elect to treat sales from services as being in this state under subsection B of this section as follows:

1. The election must be made on the taxpayer's timely filed original income tax return. The election is:

(a) Effective retroactively for the full taxable year of the income tax return on which the election is made.

(b) Binding on the taxpayer for at least five consecutive taxable years, regardless of whether the taxpayer no longer meets the percentage threshold of a multistate service provider during that time period, except as provided by paragraph 2 of this subsection. To continue with the election after the five consecutive taxable years, the taxpayer must meet the qualifications to be considered a multistate service provider and renew the election for another five consecutive taxable years.

2. During the election period, the election may be terminated as follows:

(a) Without the permission of the department on the acquisition or merger of the taxpayer.

(b) With the permission of the department before the expiration of five consecutive taxable years.

D. For a multistate service provider under subsection E, paragraph 3, subdivision (b) of this section, an election under subsection B of this section is limited to the treatment of sales for educational services.

E. For the purposes of this section:

1. "Income-producing activity sales" means the total sales from services that are sales in this state under subsection A of this section.

2. "Market sales" means the total sales from services AND SALES OF INTANGIBLES, AS DEFINED IN PARAGRAPH 3, SUBDIVISION (a) OF THIS SUBSECTION, for which the purchaser received the benefit of the service OR INTANGIBLES in this state.

3. "Multistate service provider" means either:

(a) A taxpayer that derives more than eighty-five percent of its sales from services or sales from intangibles provided to purchasers who receive the benefit of the service OR INTANGIBLES outside this state in the taxable year of election, and includes all taxpayers required to file a combined report pursuant to section 43-942 and all members of an affiliated group included in a consolidated return pursuant to section 43-947. In calculating the eighty-five percent, sales to students receiving educational services at campuses physically located in this state shall be excluded from the calculation. For the purposes of this subdivision, "sales from intangibles" means sales derived from credit and charge card receivables, including fees, merchant discounts, interchanges, interest and related revenue.

(b) A taxpayer that is a regionally accredited institution of higher education with at least one university campus in this state that has more than two thousand students residing on the campus, and includes all taxpayers required to file a combined report pursuant to section 43-942 and all members of an affiliated group included in a consolidated return pursuant to section 43-947.

4. "Received the benefit of the service in this state" means the services are received by the purchaser in this state. If the state where the services are received cannot be readily determined, the services are considered to be received at the home of the customer or, in the case of a business, the office of the customer from which the services were ordered in the regular course of the customer's trade or business. If the ordering location cannot be determined, the services are considered to be received at the home or office of the customer to which the services were billed.

5. "Sales for educational services" means tuition and fees required for enrollment and fees required for courses of instruction, transcripts and graduation.

Sec. 16. Section 43-1164.05, Arizona Revised Statutes, is amended to read:

43-1164.05. Credit for renewable energy investment and production for self-consumption by international operations centers; definitions

A. A credit is allowed against the taxes imposed by this title for investment in new renewable energy facilities that produce energy for

self-consumption using renewable energy resources if the power will be used primarily for an international operations center.

B. The taxpayer is eligible for the credit if all of the following apply:

1. The taxpayer invests at least ~~one hundred million dollars~~ $100,000,000 in one or more new renewable energy facilities in this state that produce energy for self-consumption using renewable energy resources. The minimum investment must be completed within a three-year period beginning on the date the initial application is received or by December 31, 2018, whichever is earlier.

2. A portion of the energy produced at each renewable energy facility is used for self-consumption in this state. By the fifth year a renewable energy facility is in operation, at least fifty-one percent of the energy produced must be used for self-consumption in this state. Self-consumption includes the power used by related entities if the related entities are directly or indirectly under the same ownership interests that collectively own more than eighty percent. Power that a renewable energy facility transfers to a utility qualifies as self-consumption if the utility is the same utility that provides power to the owner's international operations center in this state.

3. The power that is used for self-consumption under paragraph 2 of this subsection is used for an international operations center in this state. A lessor of an international operations center facility that uses power for self-consumption under paragraph 2 of this subsection satisfies the requirements of this paragraph if the lessee is an international operations center and the power is transferred as part of the lease to the lessee.

C. Subject to subsection F of this section, the credit authorized by this section is ~~five million dollars~~ $5,000,000 per year for five years for each renewable energy facility. The maximum credit allowed per taxpayer per year is ~~five million dollars~~ $5,000,000. The taxpayer, including all affiliates of the taxpayer, may not cumulate tax credits under this section over different taxable years exceeding, in the aggregate, ~~twenty-five million dollars~~ $25,000,000. The initial credit for each facility is claimed in the year that the facility becomes operational. A credit, other than carryovers allowed under subsection M of this section, may not be claimed for any taxable year beginning after December 31, 2025.

D. To qualify as a separate renewable energy facility for the purposes of this section, a facility must be located at least one mile from any other renewable energy facility for which the taxpayer is claiming a credit under this section.

E. To be eligible for the credit under this section, the taxpayer must apply to the department for certification of the credit on a form prescribed by the department. The application shall include:

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

2. An estimate of the total investment the taxpayer will make, over a three-year period beginning on the date the application is received, in new renewable energy facilities in this state that produce energy for self-consumption using renewable energy resources.

3. The expected location of each of the taxpayer's facilities that comprise the total investment in paragraph 2 of this subsection and the earliest date that each facility is expected to be operational.

4. A statement that the portion of the power generated by each facility, as required by subsection B, paragraph 2 of this section, shall be for self-consumption and shall be used for international operations center use.

5. Any additional information that the department requires.

F. The department shall review each application under subsection E of this section and preapprove the taxpayer for a specified amount of credit that is authorized. Credits are allowed under this section ~~and section 43-1083.04~~ on a ~~first come, first served~~ FIRST-COME, FIRST-SERVED basis. The department may not authorize tax credits under this section ~~and section 43-1083.04~~ that exceed in the aggregate a total of ~~ten million dollars~~ $10,000,000 for any calendar year. The portion of each year's limit that is reserved for each taxpayer must be based on the year that each credit is expected to be claimed using the dates provided in subsection E, paragraph 3 of this section. If the year a facility is completed is different from the estimated completion date provided in subsection E, paragraph 3 of this section, the taxpayer must amend the application with the new dates. If an application is received that, if authorized, would require the department to exceed the ~~ten million dollar~~ $10,000,000 limit, the department shall grant the applicant only the remaining credit amount that would not exceed the ~~ten million dollar~~ $10,000,000 limit. After the department authorizes ~~ten million dollars~~ $10,000,000 in tax credits, the department shall deny any subsequent applications that are received for that calendar year. The department may not authorize any additional tax credits that exceed the ~~ten million dollar~~ $10,000,000 limit even if the amounts that have been certified to any taxpayer are not claimed or a taxpayer otherwise fails to meet the requirements to claim the additional credit.

G. If a taxpayer fails to start construction within six months after submitting the application under subsection E of this section, the preapproval issued under subsection F of this section is void and all monies reserved from the limits specified in subsection F of this section revert back to the limit for the year for which they were reserved.

H. Each year after initial preapproval, on or before the anniversary date of the application specified in subsection E of this section, the taxpayer must submit to the department:

1. Documentation of the taxpayer's progress toward the investment required by subsection B, paragraph 1 of this section. This documentation is not required after the department receives a report stating that the required investment threshold has been reached.

2. Documentation for each facility that demonstrates that the required portion of the power generated by each renewable energy facility is for self-consumption as required by subsection B, paragraph 2 of this section.

3. If applicable, certification from the Arizona commerce authority pursuant to section 41-1520.

I. The taxpayer must submit a request for final certification to the department within thirty days after each of the renewable energy facilities for which an authorization was given under subsection F of this section becomes operational. Within thirty days after receiving a completed request under this subsection, the department shall review the request and either issue a final certification of the credit to the taxpayer or issue a denial of the credit if it is determined that the requirements of this section have not been met. Every final certification issued under this subsection must include a facility code issued by the department that is unique to each facility. To show that the facility has been certified, the taxpayer shall include with the tax return the facility code for each facility for which a credit is claimed. If the taxpayer is the owner or operator of an international operations center, the taxpayer must submit the request for final certification for each of the renewable energy facilities for which capital investment will be claimed towards the required investment threshold and must submit additional evidence to the department within sixty days after the end of the fifth year of operation of each facility that the requirements of subsection B, paragraph 2 of this section have been met.

J. If the taxpayer fails to make the required investment in renewable energy facilities within the time period required by subsection B, paragraph 1 of this section or if the certification of an international operations center has been revoked under section 41-1520 due to a failure to make a ~~one billion two hundred fifty million dollar~~ $1,250,000,000 investment in the center within ten years after certification or if the taxpayer fails to receive final certification of the credit under subsection I of this section, the taxpayer is not eligible and must cease claiming any further credits under this section and shall reimburse the amount of all credits previously received under this section. The reimbursement must be made on the taxpayer's income tax return for the taxable year in which it is first known that the required investment would not be made within the required time or the taxable year in which the certification was revoked. The department may give special consideration or allow a temporary exemption from reimbursement if there is extraordinary hardship due to factors beyond the taxpayer's control. If

the reimbursement is due to revocation of the certification of an international operations center due to a failure to invest ~~one billion two hundred fifty million dollars~~ $1,250,000,000 in the center within ten years after certification, the credits shall be reimbursed in inverse proportion to the total capital investment made in the international operations center divided by ~~one billion two hundred fifty million dollars~~ $1,250,000,000. The department may require reimbursement before the tenth anniversary of certification of an international operations center if the facility has been closed or relocated or the taxpayer has otherwise demonstrated that the ~~one billion two hundred fifty million dollar~~ $1,250,000,000 investment will not be timely made.

K. If a particular facility ceases to meet the requirements of this section or if the facility is sold, the taxpayer may not claim any future credits related to that facility.

L. Co-owners of a business, including corporate partners in a partnership and CORPORATE members of a limited liability company TREATED AS A PARTNERSHIP, may each claim the pro rata share of the credit allowed under this section based on ownership interest. ONLY CO-OWNERS THAT ARE CORPORATIONS MAY CLAIM A SHARE OF THE CREDIT ALLOWED UNDER THIS SECTION. The total of the credits allowed all the owners of the business may not exceed the amount that would have been allowed for a sole owner of the business.

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

N. A taxpayer may not claim a credit under this section and section 43-1164.03 regarding the same facilities.

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

P. For the purposes of this section:

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

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

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

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

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

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

(f) Landfill gas, wastewater treatment gas and biosolids, including organic waste by-products generated during the wastewater treatment process.

2. "International operations center" means a facility that is certified by the Arizona commerce authority pursuant to section 41-1520.

3. "Renewable energy facility" means a facility in which the taxpayer invested at least ~~thirty million dollars~~ $30,000,000, that has at least twenty megawatts generating capacity or a minimum typical annual generation of forty thousand megawatt hours, that is located on land in this state owned or leased by the taxpayer and that produces electricity using a renewable energy resource.

4. "Renewable energy resource" means a resource that generates electricity through the use of only the following energy sources:

(a) Solar light.

(b) Solar heat.

(c) Wind.

(d) Biomass, including fuel cells supplied directly or indirectly with biomass generated fuels.

Sec. 17. Savings clause

The repeal of the income tax credit under this act does not affect the continuing validity of any amount of the credit carried forward from previous taxable years for application against subsequent tax liabilities as allowed by prior law.