

REFERENCE TITLE: forest products; processing; tax credit

State of Arizona  
Senate  
Fifty-fifth Legislature  
First Regular Session  
2021

## **SB 1177**

Introduced by  
Senators Kerr: Gowan, Gray, Livingston, Rogers, Shope

### **AN ACT**

AMENDING SECTION 43-222, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1076.01; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1162; RELATING TO INCOME TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 43-222, Arizona Revised Statutes, is amended to  
3 read:

4 43-222. Income tax credit review schedule

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

7 1. For years ending in 0 and 5, sections 43-1079.01, 43-1087,  
8 43-1088, 43-1089.04, 43-1167.01 and 43-1175.

9 2. For years ending in 1 and 6, sections 43-1072.02, 43-1074.02,  
10 43-1076.01, 43-1083, 43-1083.02, 43-1162, 43-1164.03 and 43-1183.

11 3. For years ending in 2 and 7, sections 43-1073, 43-1085, 43-1086,  
12 43-1089, 43-1089.01, 43-1089.02, 43-1089.03, 43-1164 and 43-1169.

13 4. For years ending in 3 and 8, sections 43-1074.01, 43-1081,  
14 43-1168, 43-1170 and 43-1178.

15 5. For years ending in 4 and 9, sections 43-1073.01, 43-1076,  
16 43-1081.01, 43-1083.03, 43-1084, 43-1164.04, 43-1164.05, and 43-1184.

17 Sec. 2. Title 43, chapter 10, article 5, Arizona Revised Statutes,  
18 is amended by adding section 43-1076.01, to read:

19 43-1076.01. Healthy forest production tax credit: definitions

20 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2021, A  
21 CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR PROCESSING  
22 QUALIFYING FOREST PRODUCTS.

23 B. THE TAXPAYER IS ELIGIBLE FOR THE CREDIT IF ALL OF THE FOLLOWING  
24 APPLY:

25 1. THE TAXPAYER HAS A CURRENT HEALTHY FOREST ENTERPRISE INCENTIVE  
26 CERTIFICATION AND MEMORANDUM OF UNDERSTANDING WITH THE ARIZONA COMMERCE  
27 AUTHORITY PURSUANT TO SECTION 41-1516.

28 2. THE TAXPAYER PROCESSES QUALIFYING FOREST PRODUCTS FROM A  
29 QUALIFYING PROJECT FROM AND AFTER DECEMBER 31, 2021 AND BEFORE JANUARY 1,  
30 2031.

31 3. THE FACILITY THAT PROCESSES QUALIFYING FOREST PRODUCTS IS  
32 LOCATED WITHIN THIS STATE.

33 C. THE TAXPAYER IS ELIGIBLE FOR THE CREDIT FOR THE CALENDAR YEAR IN  
34 WHICH THE QUALIFYING PROJECT PROCESSES QUALIFYING FOREST PRODUCTS PURSUANT  
35 TO SUBSECTION B OF THIS SECTION.

36 D. IF THE ALLOWABLE CREDIT UNDER THIS SECTION EXCEEDS THE TAXES  
37 OTHERWISE DUE UNDER THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE  
38 NO TAXES DUE UNDER THIS TITLE, THE TAXPAYER MAY CARRY FORWARD THE AMOUNT  
39 OF THE CLAIM NOT USED TO OFFSET THE TAXES UNDER THIS TITLE FOR NOT MORE  
40 THAN FIVE CONSECUTIVE TAXABLE YEARS' INCOME TAX LIABILITY.

41 E. THE CREDIT AUTHORIZED BY THIS SECTION IS BASED ON THE NUMBER OF  
42 TONS OF QUALIFYING FOREST PRODUCTS THAT A TAXPAYER PROCESSES DURING A  
43 CALENDAR YEAR. FOR A TAXPAYER WHO FILES ON A FISCAL YEAR BASIS, THE CREDIT  
44 SHALL BE CLAIMED ON THE RETURN FOR THE TAXABLE YEAR IN WHICH THE CALENDAR  
45 YEAR ENDS.

F. SUBJECT TO SUBSECTION H OF THIS SECTION, THE AMOUNT OF THE CREDIT IS \$10,000 FOR THE FIRST TWENTY THOUSAND TONS AND \$5,000 FOR EVERY TEN THOUSAND TONS THEREAFTER OF QUALIFYING FOREST PRODUCTS THE TAXPAYER PROCESSES IN THE CALENDAR YEAR.

G. TO BE ELIGIBLE FOR THE CREDIT UNDER THIS SECTION, THE TAXPAYER MUST APPLY TO THE DEPARTMENT, ON A FORM PRESCRIBED BY THE DEPARTMENT, FOR CERTIFICATION OF THE CREDIT. THE DEPARTMENT SHALL ACCEPT APPLICATIONS BEGINNING JANUARY 2 THROUGH JANUARY 31 OF THE YEAR FOLLOWING THE CALENDAR YEAR FOR WHICH THE CREDIT IS BEING REQUESTED. THE APPLICATION SHALL INCLUDE:

1. THE TAXPAYER'S NAME, ADDRESS AND SOCIAL SECURITY NUMBER OR FEDERAL EMPLOYER IDENTIFICATION NUMBER.

2. THE LOCATION OF THE TAXPAYER'S FACILITY THAT PROCESSES QUALIFYING FOREST PRODUCTS FOR WHICH THE CREDIT IS CLAIMED.

3. THE AMOUNT OF THE CREDIT THAT IS CLAIMED.

4. THE DATE THE TAXPAYER BEGAN PROCESSING COMMERCIALY MARKETABLE AMOUNTS OF QUALIFYING FOREST PRODUCTS.

5. ANY ADDITIONAL INFORMATION THAT THE DEPARTMENT REQUIRES.

H. THE DEPARTMENT SHALL REVIEW EACH APPLICATION UNDER SUBSECTION G OF THIS SECTION AND CERTIFY TO THE TAXPAYER THE AMOUNT OF THE CREDIT AUTHORIZED. THE AMOUNT OF THE CREDIT FOR ANY CALENDAR YEAR MAY NOT EXCEED \$500,000 PER TAXPAYER WHO PROCESSES QUALIFYING FOREST PRODUCTS. CREDITS ARE ALLOWED UNDER THIS SECTION AND SECTION 43-1162 ON A FIRST-COME, FIRST-SERVED BASIS. THE DEPARTMENT MAY NOT AUTHORIZE TAX CREDITS UNDER THIS SECTION AND SECTION 43-1162 THAT EXCEED IN THE AGGREGATE A TOTAL OF \$2,000,000 FOR ANY CALENDAR YEAR.

I. THE FIRST TIME A TAXPAYER SUBMITS A QUALIFIED APPLICATION UNDER SUBSECTION G OF THIS SECTION, THE DEPARTMENT SHALL ADD THE TAXPAYER'S NAME TO A CREDIT AUTHORIZATION LIST IN THE ORDER IN WHICH QUALIFIED APPLICATIONS ARE FIRST RECEIVED BY THE DEPARTMENT ON BEHALF OF THE TAXPAYER. A TAXPAYER'S POSITION ON THE CREDIT AUTHORIZATION LIST SHALL BE DETERMINED IN THE FIRST YEAR THE TAXPAYER SUBMITS AN APPLICATION UNDER SUBSECTION G OF THIS SECTION FOR PROCESSING QUALIFYING FOREST PRODUCTS. THE TAXPAYER'S POSITION ON THE LIST SHALL REMAIN UNCHANGED FOR THE REMAINDER OF THE PERIOD SPECIFIED IN SUBSECTION B, PARAGRAPH 2 OF THIS SECTION OR UNTIL A YEAR IN WHICH THE TAXPAYER FAILS TO SUBMIT A TIMELY APPLICATION UNDER SUBSECTION G OF THIS SECTION OR OTHERWISE FAILS TO COMPLY WITH THIS SECTION. IF A TAXPAYER IS REMOVED FROM THE CREDIT AUTHORIZATION LIST FOR PROCESSING QUALIFYING FOREST PRODUCTS, THE TAXPAYER MAY ESTABLISH A NEW POSITION ON THE CREDIT AUTHORIZATION LIST IN A SUBSEQUENT YEAR BY FILING A TIMELY APPLICATION FOR PROCESSING QUALIFYING FOREST PRODUCTS THAT QUALIFIES FOR THE CREDIT.

J. IF AN APPLICATION IS RECEIVED THAT, IF AUTHORIZED, WOULD REQUIRE THE DEPARTMENT TO EXCEED THE \$2,000,000 LIMIT, THE DEPARTMENT SHALL GRANT THE APPLICANT ONLY THE REMAINING CREDIT AMOUNT THAT WOULD NOT EXCEED THE

1 \$2,000,000 LIMIT. AFTER THE DEPARTMENT AUTHORIZES \$2,000,000 IN TAX  
2 CREDITS, THE DEPARTMENT SHALL DENY ANY SUBSEQUENT APPLICATIONS RECEIVED  
3 FOR THAT CALENDAR YEAR. THE DEPARTMENT MAY NOT AUTHORIZE ANY ADDITIONAL  
4 TAX CREDITS THAT EXCEED THE \$2,000,000 LIMIT EVEN IF THE AMOUNTS THAT HAVE  
5 BEEN CERTIFIED TO ANY TAXPAYER WERE NOT CLAIMED OR A TAXPAYER OTHERWISE  
6 FAILS TO MEET THE REQUIREMENTS TO CLAIM THE ADDITIONAL CREDIT.

7 K. CO-OWNERS OF A FACILITY THAT PROCESSES QUALIFYING FOREST  
8 PRODUCTS, INCLUDING PARTNERS IN A PARTNERSHIP AND SHAREHOLDERS OF AN S  
9 CORPORATION AS DEFINED IN SECTION 1361 OF THE INTERNAL REVENUE CODE, MAY  
10 EACH CLAIM THE PRO RATA SHARE OF THE CREDIT ALLOWED UNDER THIS SECTION  
11 BASED ON OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL SUCH  
12 OWNERS WHO PROCESS QUALIFYING FOREST PRODUCTS MAY NOT EXCEED THE AMOUNT  
13 THAT WOULD HAVE BEEN ALLOWED FOR A SOLE OWNER.

14 L. THE DEPARTMENT SHALL ADOPT RULES AND PUBLISH AND PRESCRIBE FORMS  
15 AND PROCEDURES AS NECESSARY TO EFFECTUATE THE PURPOSES OF THIS SECTION.

16 M. FOR THE PURPOSES OF THIS SECTION:

17 1. "PROCESSED" OR "PROCESSING" MEANS ANY CHANGE IN THE PHYSICAL  
18 STRUCTURE OF QUALIFYING FOREST PRODUCTS REMOVED FROM A QUALIFYING PROJECT  
19 INTO A MARKETABLE COMMERCIAL PRODUCT OR COMPONENT OF A PRODUCT THAT HAS  
20 COMMERCIAL VALUE TO A CONSUMER OR PURCHASER AND THAT IS READY TO BE USED  
21 WITH OR WITHOUT FURTHER ALTERING ITS FORM.

22 2. "QUALIFYING FOREST PRODUCTS" MEANS QUALIFYING FOREST PRODUCTS AS  
23 DEFINED IN SECTION 41-1516 THAT ARE SOURCED WITHIN THIS STATE.

24 3. "QUALIFYING PROJECT" HAS THE SAME MEANING PRESCRIBED IN SECTION  
25 41-1516.

26 Sec. 3. Title 43, chapter 11, article 6, Arizona Revised Statutes,  
27 is amended by adding section 43-1162, to read:

28 43-1162. Healthy forest production tax credit; definitions

29 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2021, A  
30 CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR PROCESSING  
31 QUALIFYING FOREST PRODUCTS.

32 B. THE TAXPAYER IS ELIGIBLE FOR THE CREDIT IF ALL OF THE FOLLOWING  
33 APPLY:

34 1. THE TAXPAYER HAS A CURRENT HEALTHY FOREST ENTERPRISE INCENTIVE  
35 CERTIFICATION AND MEMORANDUM OF UNDERSTANDING WITH THE ARIZONA COMMERCE  
36 AUTHORITY PURSUANT TO SECTION 41-1516.

37 2. THE TAXPAYER PROCESSES QUALIFYING FOREST PRODUCTS FROM A  
38 QUALIFYING PROJECT FROM AND AFTER DECEMBER 31, 2021 AND BEFORE JANUARY 1,  
39 2031.

40 3. THE FACILITY THAT PROCESSES QUALIFYING FOREST PRODUCTS IS  
41 LOCATED WITHIN THIS STATE.

42 C. THE TAXPAYER IS ELIGIBLE FOR THE CREDIT FOR THE CALENDAR YEAR IN  
43 WHICH THE QUALIFYING PROJECT PROCESSES QUALIFYING FOREST PRODUCTS PURSUANT  
44 TO SUBSECTION B OF THIS SECTION.

D. IF THE ALLOWABLE CREDIT UNDER THIS SECTION EXCEEDS THE TAXES OTHERWISE DUE UNDER THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS TITLE, THE TAXPAYER MAY CARRY FORWARD THE AMOUNT OF THE CLAIM NOT USED TO OFFSET THE TAXES UNDER THIS TITLE FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE YEARS' INCOME TAX LIABILITY.

E. THE CREDIT AUTHORIZED BY THIS SECTION IS BASED ON THE NUMBER OF TONS OF QUALIFYING FOREST PRODUCTS THAT A TAXPAYER PROCESSES DURING A CALENDAR YEAR. FOR A TAXPAYER THAT FILES ON A FISCAL YEAR BASIS, THE CREDIT SHALL BE CLAIMED ON THE RETURN FOR THE TAXABLE YEAR IN WHICH THE CALENDAR YEAR ENDS.

F. SUBJECT TO SUBSECTION H OF THIS SECTION, THE AMOUNT OF THE CREDIT IS \$10,000 FOR THE FIRST TWENTY THOUSAND TONS AND \$5,000 FOR EVERY TEN THOUSAND TONS THEREAFTER OF QUALIFYING FOREST PRODUCTS THE TAXPAYER PROCESSES IN THE CALENDAR YEAR.

G. TO BE ELIGIBLE FOR THE CREDIT UNDER THIS SECTION, THE TAXPAYER MUST APPLY TO THE DEPARTMENT, ON A FORM PRESCRIBED BY THE DEPARTMENT, FOR CERTIFICATION OF THE CREDIT. THE DEPARTMENT SHALL ACCEPT APPLICATIONS BEGINNING JANUARY 2 THROUGH JANUARY 31 OF THE YEAR FOLLOWING THE CALENDAR YEAR FOR WHICH THE CREDIT IS BEING REQUESTED. THE APPLICATION SHALL INCLUDE:

1. THE TAXPAYER'S NAME, ADDRESS AND SOCIAL SECURITY NUMBER OR FEDERAL EMPLOYER IDENTIFICATION NUMBER.
2. THE LOCATION OF THE TAXPAYER'S FACILITY THAT PROCESSES QUALIFYING FOREST PRODUCTS FOR WHICH THE CREDIT IS CLAIMED.
3. THE AMOUNT OF THE CREDIT THAT IS CLAIMED.
4. THE DATE THE TAXPAYER BEGAN PROCESSING COMMERCIALY MARKETABLE AMOUNTS OF QUALIFYING FOREST PRODUCTS.
5. ANY ADDITIONAL INFORMATION THAT THE DEPARTMENT REQUIRES.

H. THE DEPARTMENT SHALL REVIEW EACH APPLICATION UNDER SUBSECTION G OF THIS SECTION AND CERTIFY TO THE TAXPAYER THE AMOUNT OF THE CREDIT AUTHORIZED. THE AMOUNT OF THE CREDIT FOR ANY CALENDAR YEAR MAY NOT EXCEED \$500,000 PER TAXPAYER THAT PROCESSES QUALIFYING FOREST PRODUCTS. CREDITS ARE ALLOWED UNDER THIS SECTION AND SECTION 43-1076.01 ON A FIRST-COME, FIRST-SERVED BASIS. THE DEPARTMENT MAY NOT AUTHORIZE TAX CREDITS UNDER THIS SECTION AND SECTION 43-1076.01 THAT EXCEED IN THE AGGREGATE A TOTAL OF \$2,000,000 FOR ANY CALENDAR YEAR.

I. THE FIRST TIME A TAXPAYER SUBMITS A QUALIFIED APPLICATION UNDER SUBSECTION G OF THIS SECTION, THE DEPARTMENT SHALL ADD THE TAXPAYER'S NAME TO A CREDIT AUTHORIZATION LIST IN THE ORDER IN WHICH QUALIFIED APPLICATIONS ARE FIRST RECEIVED BY THE DEPARTMENT ON BEHALF OF THE TAXPAYER. A TAXPAYER'S POSITION ON THE CREDIT AUTHORIZATION LIST SHALL BE DETERMINED IN THE FIRST YEAR THE TAXPAYER SUBMITS AN APPLICATION UNDER SUBSECTION G OF THIS SECTION FOR PROCESSING QUALIFYING FOREST PRODUCTS. THE TAXPAYER'S POSITION ON THE LIST SHALL REMAIN UNCHANGED FOR THE REMAINDER OF THE PERIOD SPECIFIED IN SUBSECTION B, PARAGRAPH 2 OF THIS

SECTION OR UNTIL A YEAR IN WHICH THE TAXPAYER FAILS TO SUBMIT A TIMELY APPLICATION UNDER SUBSECTION G OF THIS SECTION OR OTHERWISE FAILS TO COMPLY WITH THIS SECTION. IF A TAXPAYER IS REMOVED FROM THE CREDIT AUTHORIZATION LIST FOR PROCESSING QUALIFYING FOREST PRODUCTS, THE TAXPAYER MAY ESTABLISH A NEW POSITION ON THE CREDIT AUTHORIZATION LIST IN A SUBSEQUENT YEAR BY FILING A TIMELY APPLICATION FOR PROCESSING QUALIFYING FOREST PRODUCTS THAT QUALIFIES FOR THE CREDIT.

J. IF AN APPLICATION IS RECEIVED THAT, IF AUTHORIZED, WOULD REQUIRE THE DEPARTMENT TO EXCEED THE \$2,000,000 LIMIT, THE DEPARTMENT SHALL GRANT THE APPLICANT ONLY THE REMAINING CREDIT AMOUNT THAT WOULD NOT EXCEED THE \$2,000,000 LIMIT. AFTER THE DEPARTMENT AUTHORIZES \$2,000,000 IN TAX CREDITS, THE DEPARTMENT SHALL DENY ANY SUBSEQUENT APPLICATIONS RECEIVED FOR THAT CALENDAR YEAR. THE DEPARTMENT MAY NOT AUTHORIZE ANY ADDITIONAL TAX CREDITS THAT EXCEED THE \$2,000,000 LIMIT EVEN IF THE AMOUNTS THAT HAVE BEEN CERTIFIED TO ANY TAXPAYER WERE NOT CLAIMED OR A TAXPAYER OTHERWISE FAILS TO MEET THE REQUIREMENTS TO CLAIM THE ADDITIONAL CREDIT.

K. CO-OWNERS OF A FACILITY THAT PROCESSES QUALIFYING FOREST PRODUCTS, INCLUDING CORPORATE PARTNERS IN A PARTNERSHIP, MAY EACH CLAIM THE PRO RATA SHARE OF THE CREDIT ALLOWED UNDER THIS SECTION BASED ON OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL SUCH OWNERS THAT PROCESS QUALIFYING FOREST PRODUCTS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN ALLOWED FOR A SOLE OWNER.

L. THE DEPARTMENT SHALL ADOPT RULES AND PUBLISH AND PRESCRIBE FORMS AND PROCEDURES AS NECESSARY TO EFFECTUATE THE PURPOSES OF THIS SECTION.

M. FOR THE PURPOSES OF THIS SECTION:

1. "PROCESSED" OR "PROCESSING" MEANS ANY CHANGE IN THE PHYSICAL STRUCTURE OF QUALIFYING FOREST PRODUCTS REMOVED FROM A QUALIFYING PROJECT INTO A MARKETABLE COMMERCIAL PRODUCT OR COMPONENT OF A PRODUCT THAT HAS COMMERCIAL VALUE TO A CONSUMER OR PURCHASER AND THAT IS READY TO BE USED WITH OR WITHOUT FURTHER ALTERING ITS FORM.

2. "QUALIFYING FOREST PRODUCTS" MEANS QUALIFYING FOREST PRODUCTS AS DEFINED IN SECTION 41-1516 THAT ARE SOURCED WITHIN THIS STATE.

3. "QUALIFYING PROJECT" HAS THE SAME MEANING PRESCRIBED IN SECTION 41-1516.

Sec. 4. Purpose

Pursuant to section 43-223, Arizona Revised Statutes, the legislature enacts sections 43-1076.01 and 43-1162, Arizona Revised Statutes, as added by this act, to encourage the existing forest product industry to increase its capacity and invest in additional forest processing infrastructure and to provide incentives for new industry to locate in Arizona to increase the pace and scale of forest restoration in support of sound forest management and watershed protection.