



**Arizona Commerce Authority
ACA Rule 12-02
Quality Jobs Tax Credit Program
Published December 30, 2011**

1. Pursuant to A.R.S. §41-1504(C)(1), the Arizona Commerce Authority (Commerce) is authorized to begin assessing and collecting fees for processing applications and administering tax incentive programs. The fee schedule will be posted on the website at: www.azcommerce.com.
2. The 10,000 new job program cap, established by A.R.S. §41-1525(C), for the Quality Jobs Tax Credit (QJTC) Program is based on Commerce's fiscal year, July 1st through June 30th. Tax credits will be allocated on a first come, first served basis according to the priority placement number established by the date of receipt of the taxpayers' "Application for Quality Jobs Tax Credits" or "Request for Pre-Approval."
3. The maximum 400 new jobs limitation, established by A.R.S. §41-1525(C), is calculated by the taxpayer's tax year. A taxpayer filing a combined or consolidated Arizona income tax return is considered to be a single taxpayer for purposes of the QJTC program. A taxpayer with multiple Arizona locations is limited to credits on 400 first year qualified employment positions (QEPs) in any given year.
4. Commerce is establishing a pre-approval process for applicants of the Quality Jobs Tax Credit Program. The purpose of the pre-approval process is to provide assurance to eligible taxpayers that they will receive an allocation of tax credits under the programs 10,000 new jobs fiscal year cap.
 - a. To ensure availability and the reservation of an allocation of tax credits under the fiscal year cap outlined in A.R.S. §41-1525(C), a taxpayer must submit a "Request for Pre-approval" form to Commerce. If a Request for Pre-approval is not submitted, a taxpayer may still apply for an allocation of tax credits; however, there is no guarantee that sufficient fiscal year cap will be available when the taxpayer submits its application for tax credits.
 - b. The request for pre-approval form will be posted on Commerce's website at: www.azcommerce.com
 - c. Commerce shall accept Request for Pre-approval forms for a fiscal year's cap only during that fiscal year. Any Request for Pre-

- approval form for a fiscal year's cap received prior to the first business day of the fiscal year or after the last day of the fiscal year will not be accepted and the taxpayer will be notified.
- d. A taxpayer must submit a Request for Pre-Approval form for each location it intends to claim a tax credit. Taxpayers filing combined or consolidated returns that aggregate more than 400 QEPs for the tax year shall adjust the number of employees for whom credits are claimed at each location to ensure the 400 limit is not exceeded.
 - e. A Request for Pre-Approval form can be submitted under a fiscal year cap only if the taxpayer's tax year end occurs during said fiscal year.
 - f. Submittal of Request for Pre-approval forms:
 - i. It is highly recommended that taxpayers submit the Request for Pre-approval form electronically via Commerce's website at www.azcommerce.com. Acceptance of the electronic Request for Pre-approval form will be demonstrated by the date and time receipt generated by the website tracking mechanism.
 - ii. A hard copy Request for Pre-approval form delivered to Commerce via United States Postal Service, will be deemed accepted by Commerce at 5:00pm on the date of receipt.
 - iii. Request for Pre-approval forms delivered via private delivery service or hand delivery, will be deemed accepted by Commerce on the date and time identified on the tracking receipt or the date and time the Commerce receptionist stamps the pre-approval form received, as applicable.
 - iv. Emailed or faxed copies of pre-approval forms will not be accepted by Commerce.
 - g. The date of receipt of an Application or Request for Pre-approval determines the priority placement number.
 - h. Commerce will notify applicants on its website at www.azcommerce.com if and when the cap has been exhausted for the fiscal year. Commerce will not begin accepting Request for Pre-approval forms for the next fiscal year until the first business day of the fiscal year.
 - i. Any Request for Pre-approval form for a fiscal year's cap that is not substantially complete will be considered withdrawn by the applicant and the applicant will be notified. Once a Request for Pre-approval form is deemed withdrawn by the applicant, processing will cease and the priority placement number will be

voided. The taxpayer is responsible for timely submitting any additional information requested by Commerce. If a Request for Pre-approval form is considered withdrawn, a taxpayer may file a new Request for Pre-approval form for the same taxable year at a later date and receive a new priority placement number.

5. A taxpayer meeting the standards of A.R.S. §41-1525(B) may participate in the Quality Jobs Tax Credit Program for one tax year, based on the initial investment and job creation made in that tax year. For example, if a taxpayer meets the QJTC qualifications in tax year 2011, it may claim first year credits in tax year 2011. The taxpayer may also claim continuing 2nd and 3rd year credits in tax years 2012 and 2013, and carry forward credits, as applicable, in tax years 2012 through 2018. However, in order to claim a first year tax credit in tax year 2012, the taxpayer must again and separately meet the standards of A.R.S. §41-1525(B) in tax year 2012.
6. Only the capital investment made and jobs created within the state of Arizona by the taxpayer will be counted toward the requirements of A.R.S. §41-1525(B), in order to generate and receive a tax credit. Further, only the capital investment made and jobs created on or after July 1, 2011 can be counted toward the requirements.
7. A taxpayer claiming tax credits at a location within a metro area must meet the requirements of A.R.S. §41-1525(B)(1) and need not also meet the requirements of A.R.S. §41-1525(B)(2). However, if a company has more than one non-contiguous location and can demonstrate eligibility for each such location, Commerce may allocate credits for both locations simultaneously or consecutively, as long as the limitations in A.R.S. §41-1525(C) are upheld. Capital investments made and QEPs created at non-contiguous locations cannot be aggregated for purposes of meeting minimum investment or QEP standards.
8. The term “expenditure” used in A.R.S. §41-1525(K)(1) means costs that were paid by the taxpayer. Only expenditures made on or after July 1, 2011, can be counted toward the minimum capital investment amount. Capital investments can include lease payments as well as pre-paid lease payments; however, only the portion actually paid during the current tax year can be counted. Amounts paid in the current tax year for future periods will be counted for the current tax year only if the amount is not refundable.
9. Commerce will utilize the most recent centennial census data published by the United States Census Bureau at: <http://www.census.gov/popest/data/index.html> to determine the population numbers of a city, town or county, as provided by A.R.S. §41-1525(B).

10. Pursuant to A.R.S. §41-1525(K)(1)(a), a qualified employment position is a position that consists of 1,750 hours a year of permanent employment. The position must be filled for at least ninety (90) days during the first taxable year. Further, the taxpayer must offer to pay at least sixty-five (65) percent of the health insurance costs of the employee and must pay the employee at least the county median wage.

- The 1,750 hours requirement relates to the minimum number of hours considered a full-time job based on the employee's normal work week. Although the position must be a full-time job, if an individual does not work 1,750 hours because of the date hired or because of a short taxable year, the employment position would still qualify for the credit.
- A permanent employment position is an employment position that is not established for a specified or limited period of time.
- Beginning with the date of hire, the employee must fill a position for ninety (90) days during the first taxable year.
- The employer must offer to pay at least sixty-five (65) percent of the health insurance costs of the employee. The position can still be qualified if the employee declines coverage offered by the employer. When determining the percentage, taxpayers must include health/medical insurance, but may also include other benefits to reach the sixty-five (65) percent threshold, including but limited to:
 - Dental insurance
 - Vision insurance
 - Short-term disability
 - Long-term disability
- Commerce will annually release on its website (www.azcommerce.com) the median county wage threshold that needs to be met. The annual wage will be effective for tax years beginning from and after January 1st through December 31st of each year. When calculating the median county wage, taxpayers may include the following items:
 1. Base Rate
 2. Commissions
 3. Tips
 4. Deadheading Pay
 5. Guaranteed Pay
 6. Hazard Pay
 7. Incentive Pay
 8. Longevity Pay
 9. Piece Rate
 10. Portal-to-Portal Rate
 11. Production Bonus
 12. Cost-of-Living Allowance

Taxpayers are prohibited from including the following when calculating the median county wage:

1. Attendance Bonus
2. Back Pay
3. Draw
4. Holiday Premium Pay
5. Jury Duty Pay
6. Lodging Payments
7. Meal Payments
8. Merchandise Discounts
9. Overtime Pay
10. Perquisites
11. Profit Sharing Payment
12. Relocation Allowance
13. Tuition Repayments
14. Nonproduction Bonus
15. Severance Pay
16. Shift Differential
17. Stock Bonuses
18. Tool Allowance
19. Holiday Bonus
20. Weekend Pay
21. Uniform Allowance
22. On-call Pay

Definitions for these terms are posted at the following website:
<http://www.bls.gov/ncs/ocs/sp/ncbl0062.pdf>

11. The date of hire of an employee determines the annual median county wage, as required by A.R.S §41-1525(K)(3), that must be paid by the taxpayer in all three years of employment to generate a tax credit.
12. A.R.S. §41-1525 (D)(3)(e) & (K)(3)(b) include the phrase: “job duties are performed primarily...” This phrase means that more than fifty (50) percent of the individual’s job duties are performed at a single location of the business measured by the number of hours the person works at said facility where the tax credit is being claimed.
13. Taxpayers that are self-insured for employee health insurance must provide different documentation than those taxpayers offering standard group health insurance coverage.

For regular insurance situations, the costs to the employee for treatment are not included in the calculation (e.g. co-pays and other out-of-pocket expenses). Further, taxpayers that are not self-insured must pay their

share at the time the QEP is created. It is Commerce's interpretation that self-insured employers would have an advantage if allowed to count actual medical costs as part of the equation because the costs are not incurred at the time the QEP is created. Rather, the cost should be identifiable up-front, regardless of whether the insurance is used (like a premium) and must be based on a fixed cost to each employee for insurance coverage.

For example, a company might establish a health insurance "premium" for its employees in the same manner that a traditional insurance company does. Claims from prior years would determine a "premium" amount based on an expected claim rate per employee. The company would be expected to pay at least sixty-five (65) percent of this "premium". The company would need to bear any additional costs in the event the actual claims were more than the expected claims.

Another example might be a company that hires a plan administrator to manage its self-insurance program. In this case, there may be a monthly administration fee per employee, similar to a membership fee or premium. The company would need to pay at least sixty-five (65) percent of those regular fees to qualify. The company would then pay all of the actual medical costs as incurred. Below is an example format that can be used to show the allocation of health insurance costs.

EXAMPLE PERCENT OF HEALTH INSURANCE COST PAID BY SELF-INSURED EMPLOYERS

Fee Allocation	Coverage Type	Coverage Period 1/10 to 12/10	Coverage Period 1/11 to 12/11	Coverage Period 1/12 to 12/12
Monthly premium charged to employee	Single Family	46.00 120.00	63.50 125.00	55.00 130.00
Monthly premium charged to plan	Single Family	196.00 462.00	182.40 433.95	190.85 454.50
Percent charged to employee	Single Family	23.5% 26.0%	34.8% 28.8%	28.8% 28.6%

14. A taxpayer may substitute one employee for another employee in a QEP when claiming continuing second and third year tax credits. Only persons hired in the same tax year of the original employee that meet the same criteria of the original employee can be used as a substitute.

15. Employees hired in the last ninety (90) days of a taxpayer's tax year do not qualify for a tax credit in any year. These employees, however, can be counted toward the minimum job creation requirements of A.R.S. §41-1525(B), as long as the employee was hired on or after July 1, 2011.
16. A taxpayer cannot amend a tax return and claim the credit for the first, second or third year. Credits must be claimed on the taxpayers' original tax return for all years.
17. Second year credits are only allowed for positions on which first year credits were allowed and third year credits are only allowed for positions for which second year credits were allowed.
18. Tax credits are available for up to three consecutive taxable years. A tax return filed for a short period is considered to be a taxable year. When claiming the first year tax credit on a QEP, the employee must work for the company for at least 90 days to generate the \$3,000 tax credit; however, during the second and third year of continuous employment the QEP must work for the company for the entire taxable year to generate a \$3,000 credit in each year. Below is an example of how the credit would be computed for the subject tax years:

Taxable Year	Time Frame	Number of Work Days	Tax Credit Amount
2012	July 1, 2012 through December 31, 2012	Minimum of 90 days	\$3,000 first year tax credit
2013	January 1, 2013 through December 31, 2013	365 days	\$3,000 second year tax credit
2014	January 1, 2014 through June 30, 2014	181 days	\$3,000 third year tax credit

19. When a C corp converts to an S corp or vice versa, the change in the corporation's filing status would not affect the ability to claim continuing second or third year credits. Because a C corporation and an S corporation are the same corporation, unused credits could be carried over to any S corporation liability (at the corporation level) but could not be used by the shareholders. If an S corporation converts to C corporation status, any unused credits of the S corporation retained at the corporate level could be applied to the C corporation but any credits that were

passed through to the shareholders could not be used by the C corporation.

20. When an existing business is sold or reorganized, the employees of the former business are not considered to be new employees of the “new” business and are therefore not eligible for first year credits. However, the new business can claim continuing credits (second and third year credits) on the employee, as long as the business and employment positions continue to meet all requirements. The new owners would not be eligible to claim carryover credits from the “old” business. If the sale is not the sale of an ongoing business that is substantially unchanged but the sale of only physical assets, the purchaser would not be eligible for continuing credits.
21. If an employee is transferred from one Arizona location to another Arizona location where the taxpayer is also claiming credits, the employee would be considered to be in continuous employment and would be eligible for second or third year credits at the new location if the transferred employee continues to meet all QEP requirements at the new location.
22. The physical location at which a taxpayer claims a credit must be a taxpayer’s permanent place of business. Property owned by the customer and intended for the customer’s use is not a location of the taxpayer.
23. A combined or consolidated group that has one or more corporations conducting business at the same location is considered to be a single taxpayer and the determination of the computation of net increase in new QEPs is based on the total activity of all members of the group at that location. For example, two affiliated corporations are conducting business at the same location; one corporation has 500 new positions, the other corporation has 50 new positions. Together the corporations have 550 new employment positions, however, the business is limited to claiming 400 new positions. The combined or consolidated group would report the tax credits in one combined application to Commerce.

Definitions:

- A. “Application” means the substantially complete Commerce form “Application for Quality Jobs Tax Credits” and all required attachments to apply for an allocation of tax credits.
- B. “Date of receipt” notwithstanding A.R.S. §1-218, means the date an Application or Request for Pre-Approval is delivered to and accepted by Commerce via United States Postal Service, private delivery service or hand delivery. Any other form of delivery for an Application or Request

for Pre-Approval, including emailed or faxed copies will not be accepted by Commerce.

- C. “Metro area” means counties with a population of 800,000 or more (Maricopa and Pima Counties), excluding municipalities within those counties of 50,000 or less.
- D. “Priority placement number” means the order in which the QJTC program’s 10,000 new jobs fiscal year cap is allocated to eligible taxpayers. The order is established by the date of receipt of the taxpayer’s Application or Request for Pre-Approval.
- E. “Request for Pre-Approval” means the substantially complete Commerce form “Request for Pre-Approval” and all required attachments to demonstrate eligibility for a reservation of tax credits.
- F. “Substantially complete” means all questions in the Application or Request for Pre-Approval are fully addressed by the applicant and all documents required by Commerce are attached or can be supplied within 14 calendar days after receipt of notification by Commerce of any deficiencies. One extension of an additional 14 calendar days may be requested by the applicant and granted by the program manager.
Applications or Request for Pre-Approvals that are not substantially complete will be considered withdrawn by the applicant, processing of the Application or Request for Pre-Approval by Commerce will cease and the priority placement number assigned to the Application or Request for Pre-Approval will be voided.