

Title 26. Taxation

Chapter I. Generally, Department of Finance and Administration

Subchapter C. Income Tax Generally

Part 65. Income Tax Credit for Recycling Equipment

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules of provided as follows:

"SECTION 1. PURPOSE.

These regulations are promulgated pursuant to the authority granted to the Commissioner of Revenues by Ark. Code Ann. §§26-18-301 and 26-51-104 for the implementation of Act 748 of 1991."

Subpart 1. Generally

26 CAR § 65-101. Definitions.

For the purpose of this part, the following definitions shall apply:

(1) "Recycling" means the systematic collection, sorting, decontaminating, and returning of waste materials to commerce as commodities for use or exchange;

(2) "Taxable year" means the calendar year or the fiscal year, upon the basis of which the net income is computed under the Income Tax Act of 1929, Arkansas Code § 26-51-101 et seq.; and

(3)(A) "Waste reduction, reuse, or recycling equipment" means machinery and equipment located in Arkansas on the last day of the taxable year, designed to separate, process, modify, convert, or treat solid waste so that the resulting product may be used as a raw material or for productive use.

(B) "Waste reduction, reuse, or recycling equipment" does not include motor vehicles, buildings, or real property of any kind.

Authority. Arkansas Code § 26-51-506.

26 CAR § 65-102. Allowance of credit.

(a) An income tax credit shall be allowed for any taxpayer engaged in the business of reducing, reusing, or recycling solid waste material for commercial purposes who purchases waste reduction, reuse, or recycling equipment for the purpose of reducing, reusing, or recycling solid waste.

(b) To qualify for the credit the machinery and equipment must be used exclusively for reducing, reusing, or recycling solid waste.

Authority. Arkansas Code § 26-51-506.

26 CAR § 65-103. Certification.

(a) Before a claim for income tax credit may be submitted to the Department of Finance and Administration, a certification must be obtained from the Director of the Division of Environmental Quality.

(b) The certification statement must include:

(1) A statement that the taxpayer is engaged in the business of reducing, reusing, or recycling solid waste material for commercial purposes, whether or not for profit;

(2) The equipment purchased is waste reduction, reuse, or recycling equipment; and

(3) The equipment is being used in the collection, processing, separation, or manufacturing of products containing at least fifty percent (50%) recovered waste materials, of which ten percent (10%) of the recovered waste materials is from post-consumer waste.

(c) Any credit taken without the necessary certification will be disallowed.

Authority. Arkansas Code § 26-51-506.

26 CAR § 65-104. Amount of credit.

(a)(1) The amount of the credit allowed shall be equal to thirty percent (30%) of the cost of waste reduction, reuse, or recycling equipment including the cost of installation.

(2) Costs not eligible for the credit include:

- (A) Feasibility studies;
- (B) Engineering costs of a building to house the equipment;
- (C) Machinery and equipment used to service the waste reduction, reuse, or recycling equipment; and
- (D) Real property of any kind.

(b) Any taxpayer who receives the income tax credit on waste reduction, reuse, or recycling equipment under Acts 1991, No. 748, may not claim any other credit or deduction based on the purchase of the equipment, including the:

- (1) Manufacturer's investment credit; or
- (2) Enterprise zone sales and use tax refund.

Authority. Arkansas Code § 26-51-506.

26 CAR § 65-105. Claim of credit.

(a) Upon allowance of a credit the taxpayer will be issued a credit certificate by the Tax Credits and Special Refunds Section of the Revenue Division of the Department of Finance and Administration.

(b)(1) The credit certificate is to be attached to the income tax return upon which the credit is claimed.

(2) A form AR-1020 must also be attached to the return.

(3) If a credit is carried over the AR-1020 will provide the necessary documentation to claim the carryover credit for the subsequent years.

(c) Information regarding the credits may be obtained from the Tax Credits and Special Refunds Section of the Revenue Division of the Department of Finance and

Administration, Joel Ledbetter Building, 1816 W. 7th St., Room 2370, Little Rock, Arkansas 72201, (501) 682-7106.

Authority. Arkansas Code § 26-51-506.

26 CAR § 65-106. Distribution of credit.

If the entity seeking the tax credit is:

(1) A proprietorship or partnership, the amount of the credit determined for any taxable year shall be apportioned to each proprietor or partner in proportion to the amount of income from the entity which the proprietor or partner is required to include as gross income;

(2) A Subchapter S corporation, the amount of credit determined for any taxable year shall be apportioned among the persons who are shareholders of the corporation on the last day of the taxable year based on each person's percentage of ownership; and

(3) An estate or trust, the amount of the credit for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

Authority. Arkansas Code § 26-51-506.

26 CAR § 65-107. Applicability.

The provisions of this part shall apply to waste reduction, reuse, or recycling equipment purchases made after January 1, 1991.

Authority. Arkansas Code § 26-51-506.