

Title 26. Taxation

Chapter I. Generally, Department of Finance and Administration

Subchapter C. Income Tax Generally

Part 68. Apprenticeship Program Income Tax Credit under Acts 2017, No. 1042

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

"Date: November 6, 2018"

Subpart 1. Generally

26 CAR § 68-101. Definitions.

As used in this part:

- (1) "Act" means Acts 2017, No. 1042, as enacted by the General Assembly;
- (2) "Apprentice" means a worker who is at least sixteen (16) years of age and is employed:
 - (A) To learn an apprenticeable occupation under 29 C.F.R. § 29.1 et seq., as it existed on January 1, 1995; or
 - (B) In an apprenticeship or work-based learning program that meets:
 - (i) Either the standards of program design for a nationally recognized curriculum or business, industry, or trade association standards; and
 - (ii) The criteria for vocationally approved youth apprentice or work-based learning programs;
- (3)(A) "Apprenticeship or work-based learning program" includes nonregistered apprenticeship, preapprenticeship, and youth apprenticeship programs.
 - (B) "Nonregistered apprenticeship" programs are not registered and are not approved by the United States Department of Labor and may include a variety of

possible outcomes, academic and work-related competencies are integrated into the youth or adult program, and may or may not lead to a certification or credential;

(C)(i) "Preapprenticeship" programs are designed to prepare individuals to enter and succeed in registered apprenticeship programs.

(ii) These programs are not registered but have a documented partnership with at least one (1) registered apprenticeship program sponsor and are aligned with the registered apprenticeship programs, and together they expand the participant's career pathway opportunities with industry-based training coupled with classroom instruction.

(D) "Youth apprenticeship" programs consist of academic and technical classroom instruction combined with on-the-job learning experiences for individuals between the ages of sixteen (16) and twenty-one (21) years who are enrolled in a public or private secondary school;

(4) "Department" means the Department of Finance and Administration;

(5) "Taxpayer" means an employer who:

(A) Employs an apprentice; and

(B) Seeks to qualify for the state income tax credit authorized under Acts 2017, No. 1042; and

(6) "Wages" are the gross taxable wages paid to an apprentice.

Authority. Arkansas Code § 26-51-509.

26 CAR § 68-102. Approval into program.

(a)(1) A taxpayer seeking benefits under Acts 2017, No. 1042, must apply to the Department of Finance and Administration for approval into this program.

(2) Application must be made on forms prescribed and approved by the department.

(b) The United States Office of Apprenticeship shall determine if an employer's training program meets the qualifications pursuant to federal regulations governing

labor standards for the registration of apprenticeable occupations under 29 C.F.R. § 29.1 et seq., as it existed on January 1, 1995.

(c) The Arkansas Apprenticeship Coordination Steering Committee and the Division of Career and Technical Education shall determine if an employer's training program meets the qualifications as outlined above in 26 CAR § 68-101(2)(B) pursuant to an apprenticeship or work-based learning program.

(d)(1) When an apprenticeship agreement has been reached in which an employer is to employ one (1) or more apprentices, the United States Office of Apprenticeship shall forward to the department copies of:

(A) The apprenticeship agreement; and

(B) Other pertinent documentation regarding the qualification of the registered apprenticeship.

(2) When an apprenticeship or work-based learning agreement has been reached in which an employer is to employ one (1) or more apprentices, the Division of Career and Technical Education shall forward to the department copies of:

(A) The apprenticeship agreement; and

(B) Other pertinent documentation regarding the qualification of an apprenticeship or work-based learning program.

(e) After the department has been notified that the employer's training program meets the qualifications for a registered apprenticeship or an apprenticeship or work-based learning program, the necessary forms and instructions to be used in reporting annual wages paid to a qualified apprentice will be provided to the taxpayer.

Authority. Arkansas Code § 26-51-509.

26 CAR § 68-103. Income tax credits.

(a) Certification.

(1) To claim the credit authorized under this act, a taxpayer must certify to the Department of Finance and Administration that the taxpayer has satisfied all of the requirements for the credit.

(2) The certification shall be obtained from the United States Office of Apprenticeship if the apprentice is employed to learn an apprenticeable occupation under 29 C.F.R. § 29.1 et seq., as it existed on January 1, 1995.

(3) The certification shall be obtained from the Division of Career and Technical Information if the apprentice is employed in an apprenticeship or work-based learning program that meets:

(A) Either the standards of program design for a nationally recognized curriculum or business, industry, or trade association standards; and

(B) The criteria for vocationally approved youth apprentice or work-based learning programs.

(b) Amount of credit.

(1)(A) The taxpayer shall be allowed a credit equal to ten percent (10%) of the certified wages earned by an apprentice or two thousand dollars (\$2,000), whichever is less.

(B) The Department of Finance and Administration shall issue the taxpayer an income tax credit memorandum based on the certified wages.

(2) Separate credit memos will be issued for each tax year in which the taxpayer has paid certified wages, but in no event will more than a cumulative total of two thousand dollars (\$2,000) be allowed per apprentice per tax year.

(3) The total amount of the income tax credit that a taxpayer may claim under this act for a tax year cannot exceed ten thousand dollars (\$10,000).

(c) Use of credit.

(1)(A) In order for the taxpayer to use the credit, the income tax credit memorandum must be attached to the income tax return in which the credit is first claimed.

(B) The amount of credit that may be used by a taxpayer for any tax year shall not exceed the amount of individual or corporation income tax otherwise due.

(C) Regardless of whether or not the credit is used for the tax year in which it was earned, any unused credit may be carried over only for a maximum of two (2) consecutive tax years.

(2) If the taxpayer is a Subchapter S corporation, the pass-through provisions of Arkansas Code § 26-51-409, as in effect for the tax year the credit is earned, shall be applicable.

(3)(A) A partner's or member's distributive share of the credit shall be determined by the partnership or limited liability company agreement unless the agreement does not:

- (i) Have substantial economic effect; or
- (ii) Provide for the allocation of credits.

(B) If the agreement does not have substantial economic effect or does not provide for the allocation of the credit, the credit shall be allocated according to the partner's or member's interest in the partnership, pursuant to federal Internal Revenue Code § 704(b), as in effect on January 1, 1995.

(4) The tax credit provided under Acts 2017, No. 1042, shall apply to:

- (A) Tax years beginning January 1, 2018; and
- (B) All tax years thereafter.

Authority. Arkansas Code § 26-51-509.

Codification Notes. Internal Revenue Code § 704(b) can be found codified at 26 U.S.C. § 704(b).

26 CAR § 68-104. Superseding of prior rule.

This part shall amend and supercede Rule 1996-1 with respect to the apprenticeship program income tax credit for tax years beginning on or after January 1, 2018.

Authority. Arkansas Code § 26-51-509.