

Title 26. Taxation

Chapter I. Generally, Department of Finance and Administration

Subchapter C. Income Tax Generally

Part 69. Arkansas Waterways Investment Income Tax Credit

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

"Rule 2024-3"

"Act 881 of 2023 – IMPLEMENTATION RULE

Pursuant to the authority granted by Act 881 of 2023, and in compliance with the requirements thereof, the secretary of the Arkansas Department of Finance and Administration hereby promulgates the following rule."

Subpart 1. Generally

26 CAR § 69-101. Title.

This rule shall be cited as the "Arkansas Waterways Investment Tax Credit Rule".

Authority. Arkansas Code § 26-51-517.

26 CAR § 69-102. Definitions.

As used in this part:

- (1) "Eligible costs" means the costs of:
 - (A) Construction of a new waterway facility;
 - (B) Improvement of an existing waterway facility or property;
 - (C) Capital facility rehabilitation of an existing waterway facility or property;
 - (D) Expansion of an existing waterway facility or property; or
 - (E) Construction or improvement of rail or road access to a waterway facility;

(2) "Office" means the Tax Credits and Special Refunds Section of the Department of Finance and Administration; and

(3) "Secretary" means the Secretary of the Department of Commerce.

Authority. Arkansas Code § 26-51-517.

26 CAR § 69-103. Tax credit.

An income tax credit is allowed against the Arkansas income tax due from a taxpayer for eligible costs incurred by a taxpayer to make capital improvements to a waterway facility or property related to water transportation in Arkansas.

Authority. Arkansas Code § 26-51-517.

26 CAR § 69-104. Application.

(a) A taxpayer may submit an application for a Waterways Investment Income Tax Credit to:

The Tax Credits and Special Refunds Section of the
Department of Finance and Administration
1816 W. 7th Street, Suite 2370
Little Rock, Arkansas 72203

(b) The taxpayer's application shall be on the form required by the Tax Credits and Special Refunds Section of the Department of Finance and Administration.

(c) The taxpayer's application shall include documentation of eligible costs incurred that:

(1) The taxpayer's capital investment is in a facility or property related to water transportation in Arkansas;

(2) The taxpayer's capital investment will provide an economic benefit to the state; and

(3) The capital investment was made between January 1, 2024, and December 31, 2025.

(d) The taxpayer's documentation of eligible costs shall include:

(1) Construction contracts;

(2) Purchase invoices; and

(3) Receipts.

Authority. Arkansas Code § 26-51-517.

26 CAR § 69-105. Cost-benefit analysis.

(a) The Tax Credits and Special Refunds Section of the Department of Finance and Administration shall forward the application and documentation provided by the taxpayer to the Secretary of the Department of Commerce.

(b) The secretary shall review the documentation provided by the taxpayer.

(c) If the secretary determines that the taxpayer's capital investment meets the eligibility requirements of 26 CAR § 69-104(c) and will provide an economic benefit to the state that will be equal to or greater than the amount of the tax credit allowed, the secretary shall:

(1) Issue a positive cost-benefit analysis; and

(2) Provide a copy to the taxpayer and the Tax Credits and Special Refund Section of the Department of Finance and Administration.

(d) If the secretary is unable to issue a positive cost-benefit analysis, the secretary shall notify the:

(1) Taxpayer; and

(2) Tax Credits and Special Refunds Section of the Department of Finance and Administration, who shall close the taxpayer's application.

Authority. Arkansas Code § 26-51-517.

26 CAR § 69-106. Issuance of tax credit.

The Tax Credits and Special Refunds Section of the Department of Finance and Administration shall issue tax credits on a first-come, first-served basis, based on the date of receipt of the application by the Tax Credits and Special Refunds Section of the Department of Finance and Administration.

Authority. Arkansas Code § 26-51-517.

26 CAR § 69-107. Limitations.

(a) Income tax credits for eligible costs related to a waterway facility or property are allowed only if the eligible costs are incurred:

(1) On or after January 1, 2024; and

(2) On or before December 31, 2025.

(b) The total cumulative tax credits awarded in a calendar year for all taxpayers shall not exceed two million five hundred thousand dollars (\$2,500,000).

(c) A taxpayer may not claim an income tax credit in any one tax year in excess of ten percent (10%) of the total tax credit for which the taxpayer is eligible.

(d) The maximum tax credit allowed by a taxpayer for eligible costs related to a waterway facility or property is three million dollars (\$3,000,000).

(e) Unused tax credits may be carried forward for nine (9) consecutive years following the tax year in which the credit was earned.

(f) A taxpayer who has received funds under the Arkansas Port, Intermodal, and Waterway Development Grant Program is not eligible for a Waterways Investment Income Tax Credit.

Authority. Arkansas Code § 26-51-517.

26 CAR § 69-108. Review.

(a) The Department of Finance and Administration shall review Waterways Investment Income Tax Credits to verify eligibility for the credit.

(b) The department may disallow an income tax credit claimed in excess of the limitations described in 26 CAR § 69-107 or for which a taxpayer did not meet the eligibility requirements of 26 CAR § 69-104(c).

Authority. Arkansas Code § 26-51-517.