

REFERENCE TITLE: renewable energy production; tax credits

State of Arizona  
House of Representatives  
Fifty-fourth Legislature  
Second Regular Session  
2020

## **HB 2290**

Introduced by  
Representatives Dunn: Cobb

**AN ACT**

**AMENDING SECTIONS 43-1083.02 AND 43-1164.03, ARIZONA REVISED STATUTES;  
RELATING TO INCOME TAX CREDITS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 43-1083.02, Arizona Revised Statutes, is amended  
3 to read:

4 43-1083.02. Renewable energy production tax credit:  
5 definitions

6 A. A credit is allowed against the taxes imposed by this title for  
7 the production of electricity using renewable energy resources.

8 B. The taxpayer is eligible for the credit:

9 1. If the taxpayer holds title to a qualified energy generator that  
10 first produces electricity from and after December 31, 2010 and before  
11 January 1, ~~2021~~ 2031.

12 2. For ten consecutive calendar years beginning with the calendar  
13 year in which the qualified energy generator begins producing electricity  
14 that is transmitted through a transmission facility to a grid connection  
15 with a public or private electric transmission or distribution utility  
16 system. That same date applies with respect to that generator until the  
17 expiration of the ten-year period regardless of whether the generator is  
18 sold to another taxpayer or goes out of production before the expiration  
19 of the ten-year period.

20 C. The credit authorized by this section is based on the  
21 electricity that is generated by a qualified energy generator during a  
22 calendar year. For a taxpayer that files on a fiscal year basis, the  
23 credit shall be claimed on the return for the taxable year in which the  
24 calendar year ends.

25 D. FOR CALENDAR YEARS THROUGH DECEMBER 31, 2020, subject to  
26 subsection ~~G~~ H of this section, the amount of the credit is:

27 1. ~~One cent~~ \$.01 per kilowatt-hour of the first two hundred  
28 thousand megawatt-hours of electricity produced by a qualified energy  
29 generator in the calendar year using a wind or biomass derived qualified  
30 energy resource.

31 2. The following amounts for electricity produced by a qualified  
32 energy generator using a solar light derived or solar heat derived  
33 qualified energy resource:

34 (a) ~~Four cents~~ \$.04 per kilowatt-hour in the first calendar year in  
35 which the qualified energy generator produces electricity.

36 (b) ~~Four cents~~ \$.04 per kilowatt-hour in the second calendar year  
37 in which the qualified energy generator produces electricity.

38 (c) ~~Three and one-half cents~~ \$.035 per kilowatt-hour in the third  
39 calendar year in which the qualified energy generator produces  
40 electricity.

41 (d) ~~Three and one-half cents~~ \$.035 per kilowatt-hour in the fourth  
42 calendar year in which the qualified energy generator produces  
43 electricity.

44 (e) ~~Three cents~~ \$.03 per kilowatt-hour in the fifth calendar year  
45 in which the qualified energy generator produces electricity.

1 (f) ~~Three cents~~ \$.03 per kilowatt-hour in the sixth calendar year  
2 in which the qualified energy generator produces electricity.

3 (g) ~~Two cents~~ \$.02 per kilowatt-hour in the seventh calendar year  
4 in which the qualified energy generator produces electricity.

5 (h) ~~Two cents~~ \$.02 per kilowatt-hour in the eighth calendar year in  
6 which the qualified energy generator produces electricity.

7 (i) ~~One and one-half cents~~ \$.015 per kilowatt-hour in the ninth  
8 calendar year in which the qualified energy generator produces  
9 electricity.

10 (j) ~~One cent per~~ \$.01 kilowatt-hour in the tenth calendar year in  
11 which the qualified energy generator produces electricity.

12 E. FOR CALENDAR YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2020,  
13 SUBJECT TO SUBSECTION H OF THIS SECTION, THE AMOUNT OF THE CREDIT IS:

14 1. \$.04 PER KILOWATT-HOUR OF THE FIRST TWO HUNDRED THOUSAND  
15 MEGAWATT-HOURS OF ELECTRICITY PRODUCED BY A QUALIFIED ENERGY GENERATOR IN  
16 THE CALENDAR YEAR USING A WIND OR BIOMASS DERIVED QUALIFIED ENERGY  
17 RESOURCE.

18 2. \$.04 PER KILOWATT-HOUR FOR ELECTRICITY PRODUCED BY A QUALIFIED  
19 ENERGY GENERATOR IN THE CALENDAR YEAR USING A SOLAR LIGHT DERIVED OR SOLAR  
20 HEAT DERIVED QUALIFIED ENERGY RESOURCE.

21 ~~F.~~ F. To qualify for the purposes of this section, an energy  
22 generator may be located within one mile of an existing qualified energy  
23 generator only if the owner of the energy generator or the owner's  
24 corporate affiliates are not the owner of or the corporate affiliate of  
25 the owner of the existing qualified energy generator.

26 ~~F.~~ G. To be eligible for the credit under this section, the  
27 taxpayer must apply to the department, on a form prescribed by the  
28 department, for certification of the credit. The department shall only  
29 accept applications beginning January 2 through January 31 of the year  
30 following the calendar year for which the credit is being requested. The  
31 application shall include:

32 1. The name, address and social security number or federal employer  
33 identification number of the applicant.

34 2. The location of the taxpayer's facility that produces  
35 electricity using renewable energy resources for which the credit is  
36 claimed.

37 3. The amount of the credit that is claimed.

38 4. The date the qualified energy generator began producing  
39 commercially marketable amounts of electricity.

40 5. Any additional information that the department requires.

41 ~~G.~~ H. The department shall review each application under  
42 subsection ~~F~~ G of this section and certify to the taxpayer the amount of  
43 the credit that is authorized. The amount of the credit for any calendar  
44 year THROUGH DECEMBER 31, 2020 shall not exceed ~~two million dollars~~  
45 \$2,000,000 per facility that produces electricity using renewable energy

1 resources. THE AMOUNT OF THE CREDIT FOR ANY CALENDAR YEAR BEGINNING FROM  
 2 AND AFTER DECEMBER 31, 2020 SHALL NOT EXCEED \$200,000 PER FACILITY THAT  
 3 PRODUCES ELECTRICITY USING RENEWABLE ENERGY RESOURCES. Credits are  
 4 allowed under this section and section 43-1164.03 on a ~~first come, first~~  
 5 ~~served~~ FIRST-COME, FIRST-SERVED basis. The department shall not authorize  
 6 tax credits under this section and section 43-1164.03 that exceed in the  
 7 aggregate a total of ~~twenty million dollars~~ \$20,000,000 for any calendar  
 8 year. The first time that a taxpayer submits a qualified application for  
 9 a qualified energy generator under subsection ~~F~~ G of this section, the  
 10 department shall add the taxpayer's name to a credit authorization list  
 11 that is maintained in the order in which qualified applications are first  
 12 received by the department on behalf of the qualified energy generator. A  
 13 taxpayer's position on the credit authorization list shall be determined  
 14 in the first year the taxpayer submits an application under subsection  
 15 ~~F~~ G of this section for the qualified energy generator. The taxpayer's  
 16 position on the credit authorization list for a particular qualified  
 17 energy generator shall remain unchanged for the ten years that are  
 18 specified in subsection B, paragraph 2 of this section or until a year in  
 19 which the taxpayer fails to submit a timely application under subsection  
 20 ~~F~~ G of this section or otherwise fails to comply with this section. If a  
 21 taxpayer is removed from the credit authorization list for a qualified  
 22 energy generator, the taxpayer may establish a new position on the credit  
 23 authorization list in a subsequent year by filing a timely application for  
 24 a qualified energy generator that qualifies for the credit. If an  
 25 application is received that, if authorized, would require the department  
 26 to exceed the ~~twenty million dollar~~ \$20,000,000 limit, the department  
 27 shall grant the applicant only the remaining credit amount that would not  
 28 exceed the ~~twenty million dollar~~ \$20,000,000 limit. After the department  
 29 authorizes ~~twenty million dollars~~ \$20,000,000 in tax credits, the  
 30 department shall deny any subsequent applications that are received for  
 31 that calendar year. The department shall not authorize any additional tax  
 32 credits that exceed the ~~twenty million dollar~~ \$20,000,000 limit even if  
 33 the amounts that have been certified to any taxpayer were not claimed or a  
 34 taxpayer otherwise fails to meet the requirements to claim the additional  
 35 credit.

36 ~~H.~~ I. Co-owners of a qualified energy generator, including  
 37 partners in a partnership, members of a limited liability company and  
 38 shareholders of an S corporation as defined in section 1361 of the  
 39 internal revenue code, may each claim the pro rata share of the credit  
 40 allowed under this section based on ownership interest. The total of the  
 41 credits allowed all such owners of the qualified energy generator may not  
 42 exceed the amount that would have been allowed for a sole owner of the  
 43 generator.

1           ~~J.~~ J. If the allowable tax credit for a taxpayer exceeds the taxes  
2 otherwise due under this title on the claimant's income, or if there are  
3 no taxes due under this title, the amount of the claim not used to offset  
4 taxes under this title may be carried forward for not more than five  
5 consecutive taxable years as a credit against subsequent years' income tax  
6 liability.

7           ~~K.~~ K. The department shall adopt rules and publish and prescribe  
8 forms and procedures as necessary to effectuate the purposes of this  
9 section.

10          ~~L.~~ L. For the purposes of this section:

11           1. "Biomass" means organic material that is available on a  
12 renewable or recurring basis, including:

13           (a) Forest-related materials, including mill residues, logging  
14 residues, forest thinnings, slash, brush, low-commercial value materials  
15 or undesirable species, salt cedar and other phreatophyte or woody  
16 vegetation removed from river basins or watersheds and woody material  
17 harvested for the purpose of forest fire fuel reduction or forest health  
18 and watershed improvement.

19           (b) Agricultural-related materials, including orchard trees,  
20 vineyard, grain or crop residues, including straws and stover, aquatic  
21 plants and agricultural processed coproducts and waste products, including  
22 fats, oils, greases, whey and lactose.

23           (c) Animal waste, including manure and slaughterhouse and other  
24 processing waste.

25           (d) Solid woody waste materials, including landscape or  
26 right-of-way tree trimmings, rangeland maintenance residues, waste  
27 pallets, crates and manufacturing, construction and demolition wood  
28 wastes, excluding pressure-treated, ~~chemically-treated~~ CHEMICALLY TREATED  
29 or painted wood wastes and wood contaminated with plastic.

30           (e) Crops and trees planted for the purpose of being used to  
31 produce energy.

32           (f) Landfill gas, wastewater treatment gas and biosolids, including  
33 organic waste byproducts generated during the wastewater treatment  
34 process.

35           2. "Qualified energy generator" means a facility that has at least  
36 five megawatts generating capacity, that is located on land in this state  
37 owned or leased by the taxpayer, that produces electricity using a  
38 qualified energy resource and that sells that electricity to an unrelated  
39 entity, unless the electricity is sold to a public service corporation.

40           3. "Qualified energy resource" means a resource that generates  
41 electricity through the use of only the following energy sources:

42           (a) Solar light.

43           (b) Solar heat.

44           (c) Wind.

45           (d) Biomass.



1 (f) ~~Three cents~~ \$.03 per kilowatt-hour in the sixth calendar year  
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