

RESEARCH & DEVELOPMENT TAX CREDIT PROGRAM RULES

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RESEARCH & DEVELOPMENT TAX CREDIT PROGRAM

RULES

1.0 GENERAL INFORMATION

Act 759 of 1985 provides several tax credit incentives to Arkansas taxpayers to support research and educational program efforts at Arkansas colleges and universities. Act 1607 of 2007 amends the tax credit incentives.

Act 759 of 1985 allows the Arkansas Science & Technology Authority and the Arkansas Department of Higher Education to adopt certain rules specifically governing claims for tax credits for contributions to qualified research programs at qualified educational institutions.

These statutory provisions are codified as Arkansas Code sections 26-51-1101 through 26-51-1105.

1.1 PROGRAM NAME

These rules will govern the Arkansas Department of Higher Education and the Arkansas Science & Technology Authority's Research & Development Tax Credit Program.

1.2 PURPOSE

The purpose of the Research & Development Tax Credit Program is to provide incentive to Arkansas industry to participate in the Science & Technology Authority's Applied Research Grant Program, Basic Research Grant Program or similar research programs.

1.3 AUTHORIZATION

The Research & Development Tax Credit Program for qualified research programs is authorized by Sections 2 and 3 of Act 759 of 1985, the same being

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Arkansas Code section 11-51-1102. The power to establish rules governing this program is granted by Section 6 of Act 759 of 1985, the same being Arkansas Code section 26-51-1105.

2.0 PROGRAM DESCRIPTION

The Research & Development Tax Credit Program allows credits against a taxpayer's Arkansas state income tax for making certain qualified research expenditures, as well as certain donations or sales below cost of new machinery and equipment to a qualified research program.

2.1 LIMITS ON CREDIT

- 2.1.1 In the case of a qualified research expenditure, the amount of credit granted shall be thirty-three percent (33%) of the amount expended by the taxpayer in the tax year on the qualified research program.
- 2.1.2 In the case of a donation of new machinery or equipment, the amount of credit granted shall be thirty-three percent (33%) of the amount by which the cost is reduced.
- 2.1.3 In the case of a sale below cost of new machinery or equipment, the amount of credit granted shall be thirty-three percent (33%) of the amount by which the cost is reduced.
- 2.1.4 Total credit for qualified research expenditures, donations, and sales below cost shall be allowed up to one hundred percent (100%) of the net tax liability of the taxpayer after all other credits and reductions in tax have been calculated.
- 2.1.5 In the case of donations or sales below cost, the credit shall be claimed in the tax year of the donation or sale below cost, but all or any part of the unused credit may be carried over to and claimed in succeeding tax years until the credit is exhausted or until the end of nine tax years next succeeding the tax year of the donation or sale below cost, whichever occurs earlier.
- 2.1.6 In the case of a qualified research expenditure, the credit shall be claimed in the tax year in which the expense incurred for the qualified research is actually paid, but all or any part of any unused credit may be carried over to and claimed in succeeding tax years until the credit is exhausted or until the end of nine tax years next succeeding the tax year of the payment for the qualified research expenditure, whichever occurs earlier.
- 2.1.7 Any person claiming any credit granted by Act 759 of 1985 as amended for any expense, or contribution, or sale below cost shall not take any deduction under the Arkansas Income Tax Law for the same expense or contribution.

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2.2 DEFINITIONS

For the purposes of the Authority's Research and Development Tax Credit Program, the following words and phrases have the following definitions.

- 2.2.1 "Applied Research" shall mean any activity which seeks to utilize, synthesize, or apply existing knowledge, information, or resources to the resolution of a specific problem, question, or issue.
- 2.2.2 "Basic Research" shall mean any original investigation for the advancement of scientific or technological knowledge.
- 2.2.3 "Cost" shall mean, in the case of a donation or sale below cost by a wholesale or retail business, the amount actually paid by the wholesaler or retailer to the supplier for the machinery and equipment.
- "Cost" shall mean, in the case of a donation or sale below cost by a manufacturer of machinery or equipment, the enhanced value of the materials used to produce the machinery or equipment, which shall be deemed to be the lowest price at which the manufacturer sells the machinery or equipment.
- 2.2.4 "Industry" shall include, but not be limited to, manufacturing facilities, warehouses, distribution facilities, repair and maintenance facilities, agricultural facilities, and corporate management offices for industry.
- 2.2.5 "Machinery and Equipment" shall mean the tangible personal property used in connection with a qualified research program, and which has been approved for a tax credit under rules and regulations prescribed by the Department of Finance and Administration.
- 2.2.6 "New" shall mean the machinery and equipment that is state-of-the-art machinery and equipment which (1) has never been used except for normal testing by the manufacturer to insure that the machinery or equipment is of a proper quality and in good working order, or (2) has been used by the wholesaler or retailer solely for the purpose of demonstrating the product to customers for sale.

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2.2.7 "Qualified Educational Institution" shall mean (1) any public university, college, junior college, or vocational technical training school supported by the State of Arkansas, or (2) any private university, college, junior college, or vocational technical training school located in the State of Arkansas and qualified for tax-exempt status under Arkansas Income Tax Law, or (3) any public elementary or secondary school located in the State of Arkansas.

2.2.8 "Qualified Research Expenditures" shall mean the sum of any amounts which are paid by a taxpayer during the taxable year in funding a qualified research program, and which have been approved for tax credit treatment under rules and regulations promulgated by the Department of Finance and Administration.

2.2.9 "Qualified Research Program" shall mean a research program undertaken by a qualified educational institution which meets the eligibility criteria of the Arkansas Science & Technology Authority's Applied Research Grant Program or Basic Research Grant Program.

2.2.10 "State-of-the-Art Machinery and Equipment" shall mean machinery and equipment which is of the same type, design, and capability as like machinery and equipment which is currently sold or manufactured by donee for sale to customers.

3.0 ELIGIBILITY

Industries and individuals that qualify for a Research & Development Tax Credit under this program will be those which satisfy the following criteria:

3.1 Expenditures or donations and sales below cost of machinery and equipment must be made to a qualified educational institution for a qualified research program as defined by these rules.

3.2 The taxpayer must provide the following for each piece of machinery or equipment donated or sold below cost:

3.2.1 A statement from the receiving, qualified, educational institution that:

3.2.1.1 It has received the machinery or equipment;

3.2.1.2 The machinery or equipment is "new" machinery or equipment as defined by these rules;

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- 3.2.1.3 It has received the machinery or equipment as a donation or, if it purchased the machinery or equipment below cost, a statement of the amount paid for the machinery or equipment.
- 3.2.1.4 The machinery or equipment has been donated or sold to the qualified educational institution for use in a qualified research program;
- 3.2.2 A copy of the invoice from the business' supplier, in the case of a donation or sale below cost by a wholesale or retail business, showing the actual cost of the machinery or equipment; and
- 3.2.3 A copy of the manufacturer's wholesale price list, in the case of a donation or sale below cost by a manufacturer, showing the lowest price for the machinery or equipment for which credit is claimed.
- 3.3 In order to claim a tax credit for qualified research expenditures, the taxpayer must provide a statement from the Arkansas Science & Technology Authority that the Arkansas Department of Higher Education and the Arkansas Science & Technology Authority have approved the expenditure as part of a qualified research program.

4.0 APPLICATION PROCESS

Application for an Arkansas Income Tax Credit under this program shall be submitted to the Arkansas Science & Technology Authority. The following three documents must be submitted as part of this application:

- 4.1 An application form provided by the Authority must be completed with the following information included:
 - 4.1.1 Name and address of the applicant;
 - 4.1.2 Tax identification number of the applicant;
 - 4.1.3 Name and address of the qualified educational institution conducting the qualified research program;
 - 4.1.4 Title of the qualified research program;
 - 4.1.5 Name and phone number of the contact person for the qualified research program;

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4.1.6 Amount or value of the donation;

4.1.7 Date of the donation;

4.1.8 Any other information that may be required by the Authority.

4.2 A copy of the statement from the receiving educational institution (as described in Section 3.2.1). A copy of the check or receipt for the donation must be included with this statement.

4.3 A copy of the proposal for the research program receiving the donation.

5.0 EVALUATION

Proposals for tax credit treatment for expenditures, donations, or sales below cost to qualified research programs will be evaluated on the basis of the following criteria.

5.1 EVALUATION CRITERIA

5.1.1 All applications will be reviewed by Authority staff for completeness.

5.1.2 Such proposals will be thoroughly investigated by Authority staff to assure that all eligibility criteria are met.

5.2 TAX CREDITS GRANTED

Final decisions on granting tax credits will be made by the Board of Directors of the Arkansas Science & Technology Authority.

6.0 NOTIFICATION LETTER

The Board shall notify all taxpayers applying for tax credit treatment under this program of its final decision by letter.

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APPROVED by the Arkansas Science & Technology
Authority on this 16th day of November, 2007



Dr. Gary Phillips
Chairman, Board of Directors
Arkansas Science & Technology Authority

APPROVED by the Arkansas Department of Higher
Education on this 6th day of February, 2007.



Dr. James Percell
Director
Arkansas Department of Higher Education

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT: Arkansas Science & Technology Authority

DIVISION: N/A

PERSON COMPLETING THIS STATEMENT: Chris Snider/Communications Manager

TELEPHONE NO: 501-683-4405 **FAX NO:** 501-683-4420 **EMAIL:** chris.snider@arkansas.gov

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE

Research & Development Tax Credit Program Rules

1. Does this proposed, amended, or repealed rule or regulation have a financial impact?
Yes _____ No (x)
2. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.
3. If the purpose of this rule is to implement a federal rule or regulation, please give the incremental cost for implementing the regulation. Please indicate if the cost provided is the cost of the program.

<u>Current Fiscal Year</u>	<u>Next Fiscal Year</u>
General Revenue _____ Revenue _____	General
Federal Funds _____ Funds _____	Federal
Cash Funds _____ Funds _____	Cash
Special Revenue _____ Revenue _____	Special
Other (Identify) _____ (Identify) _____	Other

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Total _____
Total _____

3. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule? Identify the party subject to the proposed rule, and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ _____
No cost

\$ N/A

5. What is the total estimated cost by fiscal year to the agency to implement this rule?

Current Fiscal Year

Next Fiscal Year

\$806.25 (Newspaper Ads)

\$ N/A