ARKANSAS REGISTER



Proposed Rule Cover Sheet

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Name of Department
Agency or Division Name
Other Subdivision or Department, If Applicable
Previous Agency Name, If Applicable
Contact Person_
Contact E-mail
Contact Phone_
Name of Rule
Newspaper Name
Date of Publishing
Final Date for Public Comment
Location and Time of Public Meeting

QUESTIONNAIRE FOR FILING PROPOSED RULES WITH THE ARKANSAS LEGISLATIVE COUNCIL

	ARTMENT
	ARD/COMMISSION
BOA	RD/COMMISSION DIRECTOR
CON	VTACT PERSON
ADD	ORESS
	ONE NO EMAIL
NAN	ME OF PRESENTER(S) AT SUBCOMMITTEE MEETING
PRE	SENTER EMAIL(S)
	<u>INSTRUCTIONS</u>
Ques what	rder to file a proposed rule for legislative review and approval, please submit this Legislative stionnaire and Financial Impact Statement, and attach (1) a summary of the rule, describing the rule does, the rule changes being proposed, and the reason for those changes; (2) both a kup and clean copy of the rule; and (3) all documents required by the Questionnaire.
of Re	e rule is being filed for permanent promulgation, please email these items to the attention ebecca Miller-Rice, miller-ricer@blr.arkansas.gov, for submission to the Administrative s Subcommittee.
Dire	e rule is being filed for emergency promulgation, please email these items to the attention of ctor Marty Garrity, garritym@blr.arkansas.gov , for submission to the Executive committee.
Pleas	se answer each question completely using layman terms.
**** 1.	**************************************
2.	What is the subject of the proposed rule?
3.	Is this rule being filed under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No
	If yes, please attach the statement required by Ark. Code Ann. § 25-15-204(c)(1).
	If yes, will this emergency rule be promulgated under the permanent provisions of the Arkansas Administrative Procedure Act? Yes No

4.	Is this rule being filed for permanent promulgation? Yes No
	If yes, was this rule previously reviewed and approved under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No
	If yes, what was the effective date of the emergency rule?
	On what date does the emergency rule expire?
5.	Is this rule required to comply with a <i>federal</i> statute, rule, or regulation? Yes No
	If yes, please provide the federal statute, rule, and/or regulation citation.
_	
6.	Is this rule required to comply with a <i>state</i> statute or rule? Yes No
	If yes, please provide the state statute and/or rule citation.
7.	Are two (2) rules being repealed in accord with Executive Order 23-02? Yes No
	If yes, please list the rules being repealed.
	If no, please explain.
8.	Is this a new rule? Yes No
	Does this repeal an existing rule? Yes No If yes, the proposed repeal should be designated by strikethrough. If it is being replaced with a new rule, please attach both the proposed rule to be repealed and the replacement rule.
	Is this an amendment to an existing rule? Yes No If yes, all changes should be indicated by strikethrough and underline. In addition, please be

sure to label the markup copy clearly as the markup.

9.	What is the state law that grants the agency its rulemaking authority for the proposed rule, outside of the Arkansas Administrative Procedure Act? Please provide the specific Arkansas Code citation(s), including subsection(s).
10.	Is the proposed rule the result of any recent legislation by the Arkansas General Assembly? Yes No
	If yes, please provide the year of the act(s) and act number(s).
11.	What is the reason for this proposed rule? Why is it necessary?

Please provide the web address by which the proposed rule can be accessed by the public as provided in Ark. Code Ann. § 25-19-108(b)(1).
Will a public hearing be held on this proposed rule? Yes No
If yes, please complete the following:
Date:
Time:
Place:
e be sure to advise Bureau Staff if this information changes for any reason.
On what date does the public comment period expire for the permanent promulgation of the rule? Please provide the specific date.
What is the proposed effective date for this rule?
Please attach (1) a copy of the notice required under Ark. Code Ann. § 25-15-204(a)(1) and (2) proof of the publication of that notice.
Please attach proof of filing the rule with the Secretary of State, as required by Ark. Code Ann. § 25-15-204(e)(1)(A).
Please give the names of persons, groups, or organizations that you anticipate will comment on these rules. Please also provide their position (for or against), if known.
Is the rule expected to be controversial? Yes No If yes, please explain.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEP	PARTMENT
	ARD/COMMISSION
PER	SON COMPLETING THIS STATEMENT
TEL	EPHONE NO. EMAIL
emai	omply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and l it with the questionnaire, summary, markup and clean copy of the rule, and other documents. se attach additional pages, if necessary.
TITI	LE OF THIS RULE
1.	Does this proposed, amended, or repealed rule have a financial impact? Yes No
2.	Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes No
3.	In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No
	If no, please explain:
	(a) how the additional benefits of the more costly rule justify its additional cost;
	(b) the reason for adoption of the more costly rule;
	(c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and
	(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.
4.	If the purpose of this rule is to implement a <i>federal</i> rule or regulation, please state the following

(a) What is the cost to implement the federal rule or regulation?

	Next Fiscal Year
General Revenue	General Revenue
Federal Funds	Federal Funds
Cash Funds	Cash Funds
Special Revenue	Special Revenue_
Other (Identify)	Other (Identify)
Total	Total
(b) What is the additional cost of the	state rule?
Current Fiscal Year	Next Fiscal Year
General Revenue	General Revenue
Federal Funds	Federal Funds
Cash Funds	Cash Funds
Special Revenue	Special Revenue_
Other (Identify)	Other (Identify)
Total	Total
business subject to the proposed, ame rule, and explain how they are affecte <u>Current Fiscal Year</u>	ended, or repealed rule? Please identify those subject
business subject to the proposed, ame rule, and explain how they are affecte Current Fiscal Year \$	ended, or repealed rule? Please identify those subjected. Next Fiscal Year \$
business subject to the proposed, ame rule, and explain how they are affecte Current Fiscal Year \$ What is the total estimated cost by fiscal in the state of the proposed, ame rule, and explain how they are affected and explain how they are affected in the proposed, ame rule, and explain how they are affected in the proposed, ame rule, and explain how they are affected in the proposed, ame rule, and explain how they are affected in the proposed, ame rule, and explain how they are affected in the proposed, ame rule, and explain how they are affected in the proposed, ame rule, and explain how they are affected in the proposed in the propos	

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs:
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

Proposed Rulemaking

Title

Promulgated by:
Department of Commerce
Arkansas Economic Development Commission

Title 15. Natural Resources and Economic Development Chapter VIII. Arkansas Economic Development Commission, Department of Commerce Subchapter B. Economic Development Incentives Part 143. Rules for the Consolidated Incentive Act of 2003 **Subpart 1. Generally** 15 CAR § 143-101. Introduction. (a)(1) Acts 2003, No. 182, the Consolidated Incentive Act of 2003, as amended and codified at Arkansas Code § 15-4-2701 et seq., consolidated six (6) previously existing incentives into one (1) incentive package. (2) The consolidated incentives include: (A) Arkansas Enterprise Zone Act of 1993, Arkansas Code § 15-4-107 et seq. (Advantage Arkansas); (B) Economic Investment Tax Credit Act, Arkansas Code § 26-52-701 et seg. [repealed] (InvestArk); (C) Arkansas Economic Development Incentive Act of 1993, Arkansas Code § 15-4-1061 et seg. (Create Rebate); (D) Arkansas Economic Development Act of 1995, Arkansas Code § 15-4-109 et sea. (AEDA);

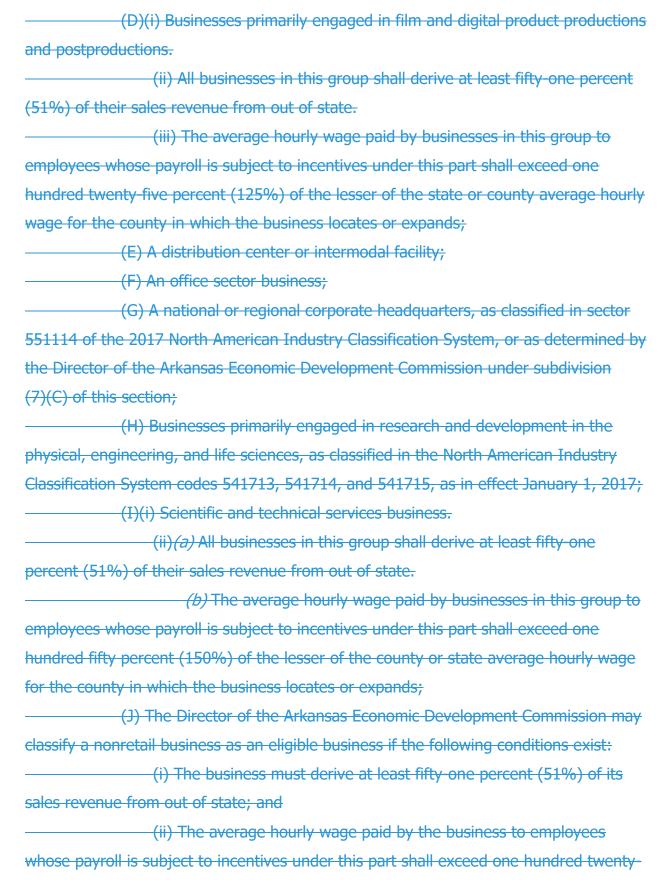


(E) Arkansas Emerging Technology Development Act of 1999, Arkansas
Code § 15-4-2101 et seq.; and
(F) Biotechnology Training and Development Act.
(b)(1) The Consolidated Incentive Act of 2003, Arkansas Code § 15-4-2701 et seq.,
as amended, also provides incentives for targeted businesses that allow earned income
tax credits to be sold, which will allow these targeted businesses to realize the benefits
of the incentive earlier.
(2) In addition, it expands the opportunities for qualified businesses to earn
income tax credits based on research and development expenditures.
(c) Other benefits of consolidating incentives include uniformity of definitions and
administration of the various incentives.
(d)(1) A financial incentive agreement will be signed with each eligible business
that:
(A) Qualifies for an incentive under this the Consolidated Incentive Act of
2003; and
(B) Is approved by the Arkansas Economic Development Commission.
(2)(A) The financial incentive agreement will be the primary document
outlining the:
(i) Benefits to be received; and
(ii) Start and end dates of the project.
(B) It will also serve as the primary source document when the
Department of Finance and Administration audits the business to verify compliance.
(e) The financial incentive agreement shall specify the:
(1) Effective date of the agreement;
(2) Term of the agreement, which shall be calculated from the date the
agreement is signed by the business and the commission;
(3) Incentive the business is to receive;
(4) Investment, wage, and payroll threshold requirements necessary to qualify
for eligibility;
(5) Eligible business's responsibilities for certifying eligibility requirements; and

(6) Approved business's responsibilities for failure to meet or maintain
eligibility requirements.
15 CAR § 143-102. Definitions.
— As used in this part:
(1) "Applied research" means any activity that applies the findings of basic
research or other existing knowledge toward discovering new scientific knowledge that
has specific commercial objectives with respect to new:
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(B) Services;
(C) Processes; or
(D) Methods;
(2)(A) "Average hourly wage" means "payroll" as defined in Arkansas Code §
15-4-2703(26), divided by the number of hours worked to earn the "payroll".
(B) For purposes of counting the number of hours worked for salaried
employees, forty (40) hours per week shall be used.
(C) The average hourly wage threshold determined at the signing of the
agreement shall be the threshold for the term of the agreement;
(3) "Basic research" means the pursuit of new scientific knowledge or
understanding that does not have specific, immediate commercial objectives, although
the pursuit may be in fields of present or potential commercial interest;
(4) "Board" means the Board of Directors of the Division of Science and
Technology of the Arkansas Economic Development Commission;
(5) "Business component" means any product, process, computer software,
technique, formula, or invention held for sale, lease, or license or used in trade or
business of the taxpayer;
(6) "Contractual employee" means an employee who:
(A) May be included in the payroll calculations of a qualified business
under this part and is under the direct supervision of the qualified business receiving

incentives under this part, but is an employee of a business other than the one (1)
receiving incentives under this part;
(B) Otherwise meets the requirements of a new full-time permanent
employee of the qualified business receiving incentives under this part; and
(C) Receives a benefits package comparable to direct employees of the
qualified business receiving incentives under this part;
(7)(A) "Corporate headquarters" means a facility or portion of a facility where
the majority of an eligible business's financial, human resources, engineering, legal,
strategic planning, information technology, corporate communications, marketing, or
other headquarters-related functions are effectuated on either a regional basis or a
national basis under the direction of principal executive officers, including without
limitation chief executive officers, chief operating officers, chief financial officers, or
other senior-level officers based at the facility.
(B) A corporate headquarters shall be either a:
(i) Regional corporate headquarters; or
(ii) National corporate headquarters.
(C) The Director of the Arkansas Economic Development Commission,
with advice from the Secretary of the Department of Finance and Administration, may
determine eligibility for a corporate headquarters facility if a difference exists between
(i) A business's disclosed corporate headquarters functions; and
(ii) Its North American Industry Classification System primary
business activity code;
(8) "County or state average hourly wage" means:
(A) The weighted average weekly earnings for Arkansans in all industries
both statewide and county-wide, as calculated by the Division of Workforce Services in
its most recent annual Covered Employment and Earnings publication, divided by forty
(40); and
(B) The average hourly wage threshold determined at the approval date
of the financial incentive agreement is the threshold for the term of the agreement:

(9) "Distribution center" means a facility for the reception, storage, and
shipping of:
(A) A business's own products or products that the business wholesales to
retail businesses or ships to its own retail outlets if seventy-five percent (75%) of the
sales revenue is from out-of-state customers;
(B) Products owned by other companies with which the business has
contracts for storage and shipping if seventy-five percent (75%) of the sales revenue of
the product owner is from out-of-state customers; or
(C) Products for sale to the general public if seventy-five percent (75%) of
the sales revenue is from out-of-state customers;
(10) "Eligible businesses" means nonretail businesses engaged in commerce
for profit that meet the eligibility requirements for the applicable incentive offered by
this part and fall into one (1) or more of the following categories in effect on the
effective date of the incentive agreement:
(A) Manufacturers classified in sectors 31-33 of the 2017 North American
Industry Classification System;
(B) Manufacturers classified in sectors 20-39 according to the Standard
Industrial Classification standards but that are classified under NAICS in another sector;
(C)(i) Businesses primarily engaged in:
(a) The design and development of software;
(b) Digital content production and preservation;
(c) Computer processing and data preparation services; or
(d) Information retrieval services.
(ii) All businesses in this group shall derive at least fifty-one percent
(51%) of their sales revenue from out of state.
(iii) The average hourly wage paid by businesses in this group to
employees whose payroll is subject to incentives under this subchapter shall exceed on
hundred twenty-five percent (125%) of the lesser of the state or county average hourly
wage for the county in which the business locates or expands:



five percent (125%) of the lesser of the state or county average hourly wage for the
county in which the business locates or expands;
(K)(i) Businesses primarily engaged in other support activities for air
transportation, as classified in the North American Industry Classification System Code
488190, as in effect on January 1, 2017.
(ii) All businesses in this group shall derive at least seventy-five
percent (75%) of their sales revenue from out of state; and
(L)(i) Businesses primarily engaged in support activities for rail
transportation, as classified in the North American Industry Classification System Code
488210, as in effect on January 1, 2017.
(ii) All businesses in this group shall derive at least seventy-five
percent (75%) of their sales revenue from out of state;
(11) "Endorsement resolution" means a resolution approved by the governing
body of the municipality or county within whose jurisdiction the project facility is located
that:
(A) Approves the business's participation in the program; and
(B)(i) Specifies that the municipality or county authorizes the Department
of Finance and Administration to refund local sales and use taxes to the approved
business.
(ii) A municipality or county can authorize the refund of a tax levied
by it but may not authorize a refund of any tax not levied by it;
(12)(A) "Equity investment" means capital invested in common or preferred
stock, royalty or intellectual property rights, limited partnership interests, limited liability
company interests, and any other securities or rights that evidence ownership in private
businesses, including a federal agency's award of a Small Business Innovation Research
(SBIR) or Small Business Technology Transfer (STTR) grant.
(B) For the purposes of this part, subordinated debt may also be
considered an equity investment;
(13)(A) "Existing employees" means those employees hired by a business
before the date the financial incentive agreement was approved.

(b) Existing employees may be considered new full-time permanent
employees only if:
(i) The position or job filled by the existing employee was created in
accordance with the approved financial incentive agreement; and
(ii) The position vacated by the existing employee was either filled by
a subsequent employee or no subsequent employee will be hired because the business
no longer conducts the particular business activity requiring that classification.
(C) If the Director of the Arkansas Economic Development Commission
and the Secretary of the Department of Finance and Administration find that a
significant impairment of job opportunities for existing employees will otherwise occur,
they may jointly authorize existing employees to qualify as new full-time permanent
employees;
(14) "Facility" means a single physical location, which may consist of multiple
structures of an eligible business that are conducting similar or complementary activities
located on noncontiguous property within the same county, at which the eligible
business is conducting its operations;
(15) "Film and digital product" means video images and other visual media
entertainment content in digital format, film, or videotape, if the video images and
other visual media entertainment content meet all the underlying criteria of a qualified
production under the Digital Product and Motion Picture Industry Development Act of
2009, Arkansas Code § 15-4-2001 et seq., including without limitation:
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(B) A documentary;
(C) A long-form program;
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(E) A mini-series;
(F) A series;
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(I) Interactive television:

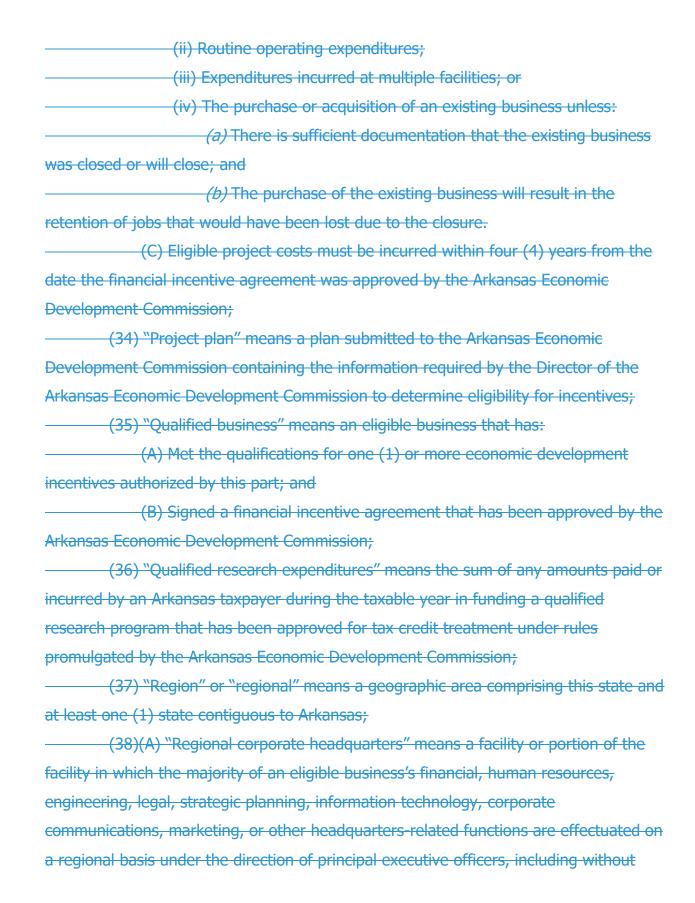
(J) An interactive game;
(K) A video game;
(L) A commercial;
(M) Digital media for distribution or exhibition to the general public; and
(N) A trailer, pilot, video teaser, or demo created primarily to stimulate the
sale, marketing, promotion, or exploitation of future investment;
(16) "Financial incentive agreement" means an agreement entered into by an
eligible business and the Arkansas Economic Development Commission to provide the
business an incentive to locate a new business or expand or retain an existing business
in Arkansas;
(17) "Governing authority" means the quorum court of a county or the
governing body of a municipality;
(18)(A)(i) "In-house research" means applied research supported by the
business through the payment of wages and usual fringe benefits specific to research
activities of employees of the business or for wages and usual fringe benefits paid
through contractual agreements, approved in writing by the Director of the Arkansas
Economic Development Commission, with an Arkansas state college, an Arkansas state
university, or other Arkansas-based research organization to perform research for a
targeted business.
(ii) "In-house research" includes experimental, clinical, or laboratory
activity to develop new products, improve existing products, or develop new uses of
products, but only to the extent that activity is conducted in Arkansas.
(B) "In-house research" does not include:
(i) Tests or inspection of materials or products for quality control;
(ii) Efficiency surveys;
(iii) Management studies;
(iv) Other market research;
(v) Supplies;
(vi) The purchase of land:

(vii) The purchase or rehabilitation of production machinery and
equipment;
(viii) The construction or renovation of buildings; or
(ix) Any other ordinary and necessary expenses of conducting
business;
(19) "Intellectual property" means an invention, discovery, or new idea that
the legal entity responsible for commercialization has legally protected for possible
commercial gain, based on the disclosure of the creator;
(20) "Intermodal facility" means a facility with more than one (1) mode of
interconnected movement of freight or commerce;
(21) "Invest" or "investment" means money expended by or on behalf of a
qualified business that:
(A) Seeks to begin or expand operations in Arkansas; and
(B) Without the infusion of capital, the location or expansion may not
occur;
(22) "Investment threshold" means the minimum amount of investment in
project cost that must be incurred to qualify for eligibility;
(23) "Lease" means a right to possession of real property for a specific term in
return for consideration, as determined in a lease agreement by both parties;
(24)(A) "Modernization" means an increase in efficiency or productivity of a
business through investment in:
(i) Machinery;
(ii) Equipment; or
(iii) Both.
(B) "Modernization" does not include costs for routine maintenance or the
installation of equipment that does not improve efficiency or productivity, except for
expenditures for pollution control equipment mandated by state or federal laws or
regulations;
(25) "NAICS" means North American Industry Classification System of 2017:

(26) "National corporate neadquarters" means the sole corporate neadquarters
in the nation that handles headquarters-related functions on a national basis;
(27)(A)(i) "New full-time permanent employee" means a position or job that
was created pursuant to an approved financial incentive agreement and that is filled by
one (1) or more employees or contractual employees who:
(a)(1) Were Arkansas taxpayers during the year in which the tax
credits or incentives were earned.
(2) Existing employees may not be considered new full-time
permanent employees unless certain conditions are met as defined herein; and
(b)(1) Work at the facility identified in the financial incentive
agreement.
(2) New employees who do not work at the facility identified
in the financial incentive agreement may be counted as new full-time permanent
employees if they:
(A) Otherwise meet the definition of "new full-time
permanent employee";
(B) Are subject to the Arkansas Income Tax Withholding
Act, Arkansas Code § 26-51-901 et seq.; and
(C) Meet an average hourly wage threshold equal to or
greater than the state average hourly wage for the preceding calendar year.
(ii) For an employee of a qualified business with a regular,
standardized work schedule, the position or job held by the employee or employees
shall have been filled for at least twenty-six (26) consecutive weeks with an average of
at least thirty (30) hours per week each tax year during the term of the agreement.
(iii) For an employee of a qualified business with an irregular,
nonstandardized work schedule, the:
(a) Position or job held by the employee or employees had been
filled for at least one hundred thirty (130) days during any twenty-six-week period of a
tax voar: and

(b) Employee or employees filling the position worked at least
seven hundred eighty (780) hours within the tax year.
(B) A contractual employee may qualify as a new full-time permanent
employee only when offered a benefits package comparable to a direct employee of the
business seeking incentives;
(28) "Nonretail business" means a business that is not classified in North
American Industry Classification System sectors 44-45, as in effect on January 1, 2017;
(29)(A) "Office sector business" means business operations that support
primary business needs, including without limitation:
(i) Customer service;
(ii) Credit accounting;
(iii) Telemarketing;
(iv) Claims processing; and
(v) Other administrative functions.
(B) All businesses in this group shall:
(i) Be nonretail businesses; and
(ii) Derive at least seventy-five percent (75%) of their sales revenue
from out of state;
(30) "Payroll" means the total taxable wages, including overtime and bonuses,
paid during the preceding tax year of the eligible business to new full-time permanent
employees hired after the date of the approved financial incentive agreement;
(31)(A) "Person" means:
(i) An individual;
(ii) A trust;
(iii) An estate;
(iv) A fiduciary;
(v) A firm;
(vi) A joint venture;
(vii) A proprietorship;
(viii) A partnorchin:

(ix) A limited liability company; or	
(x) A corporation.	
(B) "Person" includes:	
(i) The directors, officers, agents, and employees of any p	erson;
(ii) Beneficiaries, members, managers, and partners; and	
(iii) Any county or municipal subdivision of the state;	
(32) "Preconstruction costs" means the cost of eligible items incurred	ed before
the start of construction, including:	
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(B) Architectural and engineering fees;	
(C) Right-of-way purchases;	
(D) Utility extensions;	
(E) Site preparations;	
(F) Purchase of mineral rights;	
(G) Building demolition;	
(H) Builder's risk insurance;	
(I) Capitalized start-up costs;	
(J) Deposits and process payments on eligible machinery and o	equipment;
and	
(K) Other costs necessary to prepare for the start of construction	on;
(33)(A) "Project costs" means costs associated with the:	
(i) Construction of a new plant or facility;	
(ii) Expansion of an established plant or facility by adding	to the
building, machinery and equipment, or support infrastructure; or	
(iii) Modernization of an established plant or facility throug	ı h the
replacement of machinery and equipment or support infrastructure that impr	roves
efficiency or productivity.	
(B) "Project costs" does not include:	
(i) Expenditures for routine repair and maintenance that de	o not resul
in new construction, expansion, or modernization:	



limitation chief executive officers, chief operating officers, chief financial officers, or
other senior-level officers based at the facility.
(B) A function on a regional basis does not include a function involving:
(i) Manufacturing;
(ii) Processing;
(iii) Warehousing;
(iv) Distributing;
(v) Wholesaling activities; or
(vi) The operations of a call center;
(39) "Scientific and technical services business" means a business:
(A) Primarily engaged in performing scientific and technical activities for
others, including:
(i) Architectural and engineering design;
(ii) Computer programming and computer systems design; or
(iii) Scientific research and development in the physical, biological,
and engineering sciences;
(B) Deriving at least fifty-one percent (51%) of its sales revenue from ou
of state; and
(C) Paying employees whose payroll is subject to incentives under this
part average hourly wages exceeding one hundred fifty percent (150%) of the lesser of
the state or county average hourly wage for the county in which the business locates
expands;
(40) "SIC" means the Standard Industrial Classification system;
(41) "Start of construction" means any activity that causes a physical change
to the building, property, or both, identified as the site of the approved project, but
excluding preconstruction costs;
(42) "Strategic research" means research that:
(A) Has strategic economic or long-term commercial value to the state;
and

(B) Is identified in the research and development plan approved by the
Director of the Arkansas Economic Development Commission with the advice of the
Board of Directors of the Division of Science and Technology of the Arkansas Economic
Development Commission;
(43) "Support infrastructure" means physical assets necessary for the business
to operate, including without limitation:
(A) Water systems;
(B) Wastewater systems;
(C) Gas and electric utilities;
(D) Roads;
(E) Bridges;
(F) Parking lots; and
(G) Communications infrastructure;
(44) "Targeted businesses" means a grouping of growing business sectors, not
to exceed six (6), which include the following:
(A) Advanced materials and manufacturing systems;
(B) Agriculture, food, and environmental sciences;
(C) Biotechnology, bioengineering, and life sciences;
(D) Information technology;
(E) Transportation logistics; and
(F) Bio-based products;
(45) "Technological information" means information derived from basic or
applied research that provides an improved practical understanding of the business
component; and
(46) "Tiers" means the ranking of the seventy-five (75) counties of Arkansas
into four (4) divisions that delineate the economic prosperity of the counties and allow
for different levels of incentives under this part.

15 CAR § 143-103. Tiers.

(a)(1) Except for the retention investment credits (investArk) in Arkansas Code 9
15-4-2706(c), the research and development credits in Arkansas Code § 15-4-2708, and
the payroll income tax credit for targeted businesses in Arkansas Code § 15-4-2709, all
benefits provided in the Consolidated Incentive Act of 2003, Arkansas Code § 15-4-2701
et seq., are determined in relation to the tier of the county in which the project is
located.
(b)(1) The state's seventy-five (75) counties are divided into four (4) tiers, with:
(A) Tier 1 counties being the most prosperous counties; and
(B) Tier 4 counties being the least prosperous counties.
(2) Tiers are determined annually by the Arkansas Economic Development
Commission by ranking four (4) variables:
(A) Poverty rate;
(B) Population change;
(C) Per capita personal income; and
(D) Unemployment rate.
(3) A county ranking is determined for each of these variables using a
consistent source and the four (4) rankings are totaled and divided by four (4) to obtain
an overall ranking.
(4)(A) It is the intention of the commission to place fifteen (15) counties in
Tier 1 and twenty (20) counties in Tiers 2, 3, and 4, respectively.
(B) If there is a tie between two (2) or more counties for overall rankings
at the break point for tiers, the counties with a tie score will be placed in the higher tier.
(c) A county's tier ranking, determined on the effective date of any incentive
agreement under the Consolidated Incentive Act of 2003, shall establish the thresholds
and benefits for the term of the agreement, regardless of any subsequent change to
the tier.
(d)(1) A county's tier might be moved to one (1) higher tier if the county has
experienced a sudden and severe period of economic distress caused by a closure of
one (1) or more businesses or a mass layoff at one (1) or more businesses, or both, as
documented by notice provided under the Worker Adjustment and Retraining

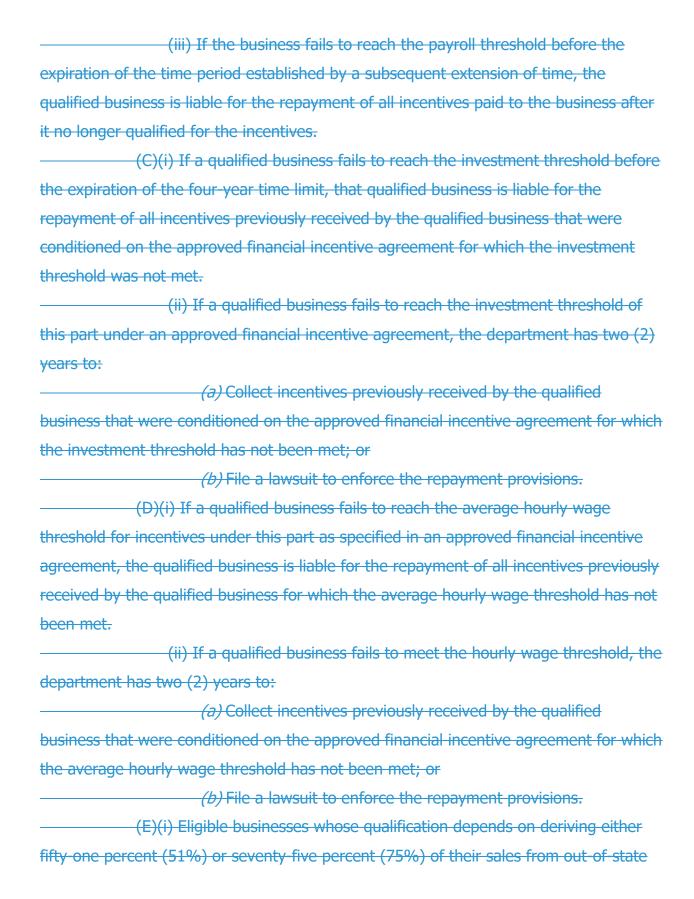
Nouncation Act, 29 0.5.C. § 2101 et seq., as it existed on January 1, 2019, that results
in a loss of a minimum of five percent (5%) of the county's total employed labor force.
(2)(A) The movement to a lower tier is authorized upon written request by the
county judge of the affected county and approval by the Director of the Arkansas
Economic Development Commission.
(B) A business that had signed a financial incentive agreement with the
commission prior to the action of the commission to move a county to a lower tier, shall
receive the benefit assigned to it at the time of the signing of the financial incentive
agreement for the duration of the agreement, regardless of any subsequent change of
a county's tier assignment.
(C) A tier modification approved under this subsection remains in effect
until the annual tier rankings are updated in accordance with this section.
(e) The five percent (5%) threshold stated in the immediately preceding subsection
(d) of this section shall be evidenced by calculating the highest percentage difference in
employment between the county's:
(1) Current monthly, not seasonally, adjusted total employed labor force; and
(2) Each of the following:
(i) The previous monthly, not seasonally, adjusted total employed labor
force;
(ii) The most recent annually, not seasonally, adjusted total employed
labor force; or
(iii) The monthly, not seasonally, adjusted total employed labor force for
the same month of the previous year.
15 CAR § 143-104. Powers and duties of the Arkansas Economic
Development Commission.
The Arkansas Economic Development Commission shall:
(1) Administer the provisions of the Consolidated Incentive Act of 2003,
Arkansas Code § 15-4-2701 et seq.; and

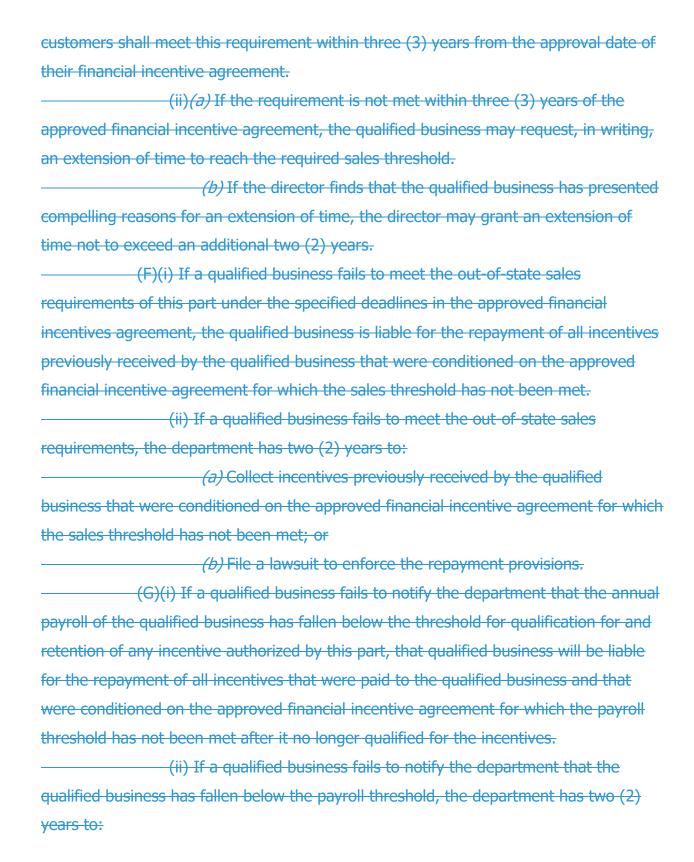
(2) Have the following powers and duties in addition to those mentioned in
other laws of the state:
(A) To promulgate rules in accordance with the Arkansas Administrative
Procedure Act, Arkansas Code § 25-15-201 et seq., necessary to carry out the
provisions of the Consolidated Incentive Act of 2003;
(B) To provide the Department of Finance and Administration with a copy
of each financial incentive agreement entered into by the commission with each
qualifying business;
(C) To assist governing authorities in obtaining assistance from any other
department of state government to promote new businesses and industries;
(D) To assist any employer or prospective employer with a qualifying
project in obtaining the benefits of any incentive or inducement program authorized by
state law;
(E) To act as a liaison between other state agencies and businesses and
industries to assure that both the spirit and intent of this part are met;
(F) To make disbursements from the Economic Development Incentive
Fund to qualified businesses as authorized in Arkansas Code § 15-4-2707 of the
Consolidated Incentive Act of 2003; and
(G) The Director of the Arkansas Economic Development Commission is
authorized to negotiate proposals on behalf of the state with prospective businesses
that are considering locating a new facility or expanding an existing facility that would
seek the discretionary programs under the Consolidated Incentive Act of 2003.

15 CAR § 143-105. Administration.

(a) If the annual payroll threshold of the business applying for incentives under the Consolidated Incentive Act of 2003, Arkansas Code § 15-4-2701 et seq., is not met within two (2) years after the signing of the approved financial incentive agreement, the business may request, in writing, an extension of time to reach the required payroll threshold.

(b)(1) If the Director of the Arkansas Economic Development Commission and the
Secretary of the Department of Finance and Administration find that the qualified
business has presented compelling reasons for an extension of time, the director may
grant an extension of time not to exceed four (4) years from the effective date of the
financial incentive agreement.
(2) However, the extension on projects applying for benefits under Arkansas
Code § 15-4-2705 is limited to a two-year extension.
(c)(1) If a qualified business fails to reach the annual payroll threshold required
under the approved financial incentive agreement, that qualified business is liable for
the repayment of all incentives previously received by the qualified business that were
conditioned on the approved financial incentive agreement for which the payroll
threshold had not been met.
(2)(A) If a qualified business fails to reach the annual payroll threshold
required under an approved financial incentive agreement, the Department of Finance
and Administration has two (2) years to:
(i) Collect incentives previously received by the qualified business; or
(ii) File a lawsuit to enforce the repayment provisions.
(B)(i) If the annual payroll of a qualified business receiving benefits unde
the Consolidated Incentive Act of 2003 falls below the payroll threshold for qualification
in a year subsequent to the year in which it initially qualified for the incentive, the
incentives outlined in the financial incentive agreement shall be terminated unless a
written application for an extension of incentives explaining why the payroll has fallen
below the level required for qualification has been filed with and approved by the
commission.
(ii) The director and the secretary may approve the:
(a) Request for extension of time, not to exceed two (2) years,
for the qualified business to bring the payroll back up to the requisite threshold
amount; and
(b) Continuation of incentives during the period the extension is
granted.





(a) Collect incentives previously received by the qualified
business and that were conditioned on the approved financial incentive agreement for
which the payroll threshold has not been met; or
(b) File a lawsuit to enforce the repayment provisions.
(iii) Interest shall also be due at the rate of ten percent (10%) per
annum.
(H)(i) The department may obtain whatever information is necessary from
a participating qualified business and from the Division of Workforce Services to verify
that a qualified business is complying with the terms of the financial incentive
agreements and reporting accurate information concerning investments, payrolls,
wages, and out-of-state revenues to the department.
(ii) The department shall provide the information obtained to the
director upon request.
(I) The department may file a lawsuit in the Circuit Court of Pulaski
County, or the circuit court in any county where a qualified business is located, to
enforce the repayment provisions of this part.
(J)(i) If a qualified business fails to satisfy or maintain any other
requirement or threshold of this part, that qualified business is liable for the repayment
of all incentives received after it no longer qualified.
(ii) If a qualified business fails to comply with the requirements or
thresholds of this part, the department has two (2) years to:
(a) Collect incentives previously received by the qualified
business for noncompliant financial incentive agreements; or
(b) File a lawsuit to enforce the repayment provisions.
(K) If a repayment is required as a result of not complying with the
requirements or thresholds of this part, interest shall be due at the rate of ten percent
(10%) per annum.

15 CAR § 143-106. Transfer and assignment of financial incentive agreements.

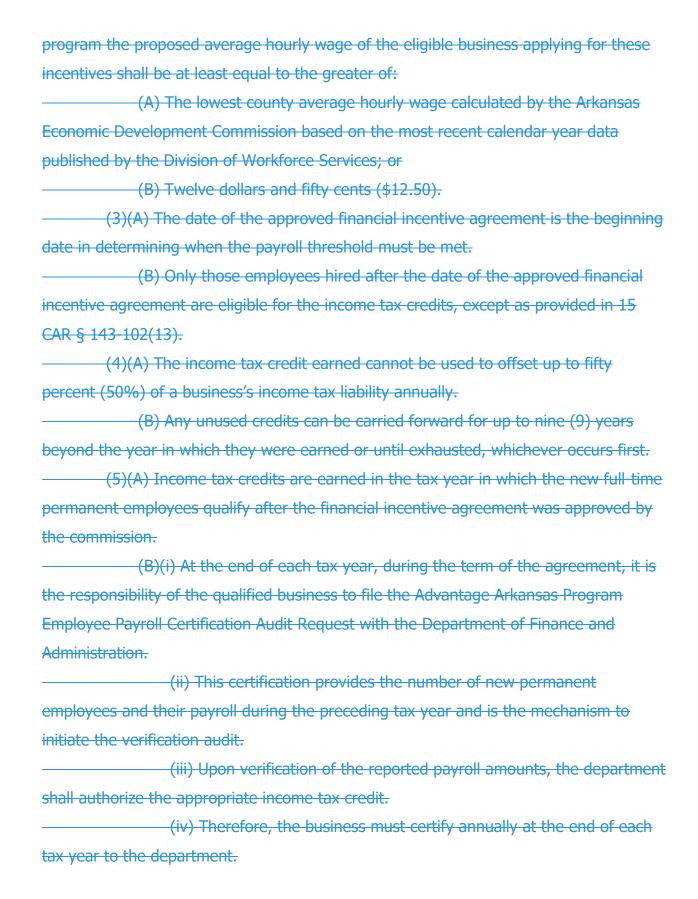


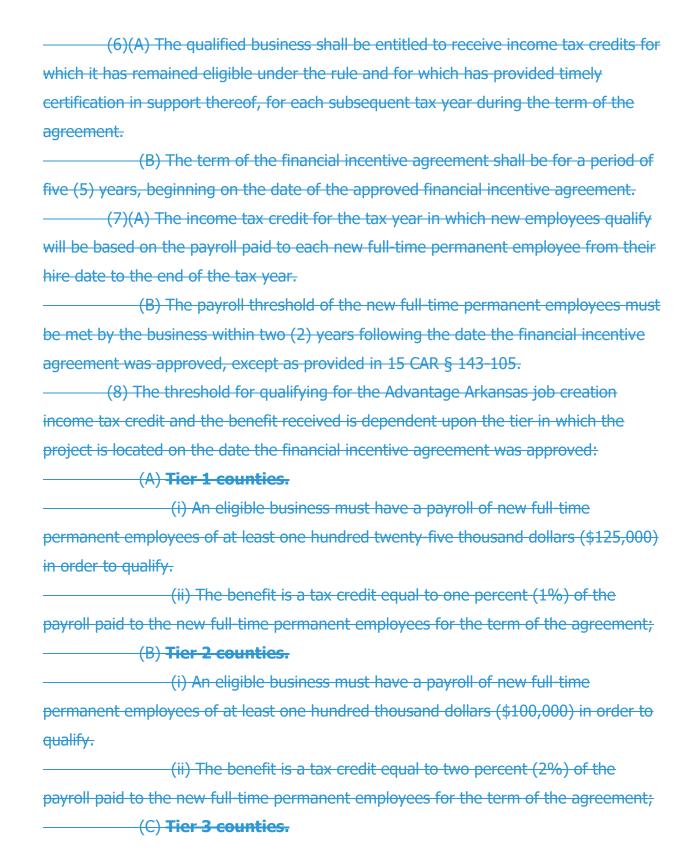
No Consolidated Incentive Act of 2003, Arkansas Code § 15-4-2701 et seq., financial incentive agreement shall be transferrable or assignable without the written consent of the Director of the Arkansas Economic Development Commission and the Secretary of the Department of Finance and Administration.

Subpart 2. Incentive Programs Contained Within the Consolidated Incentive Act of 2003, as Amended

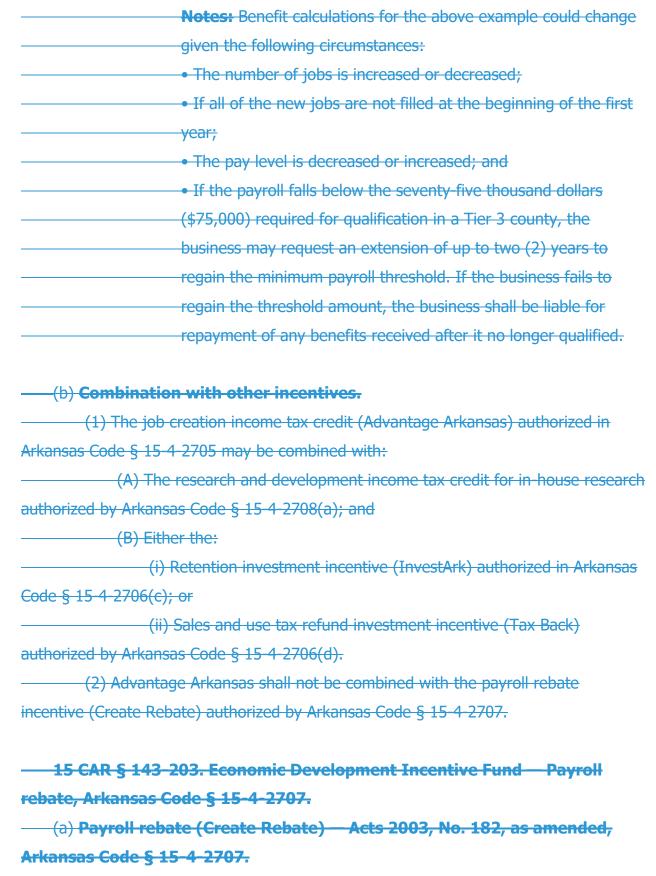
No. 182, as amended, Arkansas Code § 15-4-2705. (1)(A) The Advantage Arkansas Program provides an Arkansas income tax credit based upon a percentage of the appual payroll paid to the pow full-time

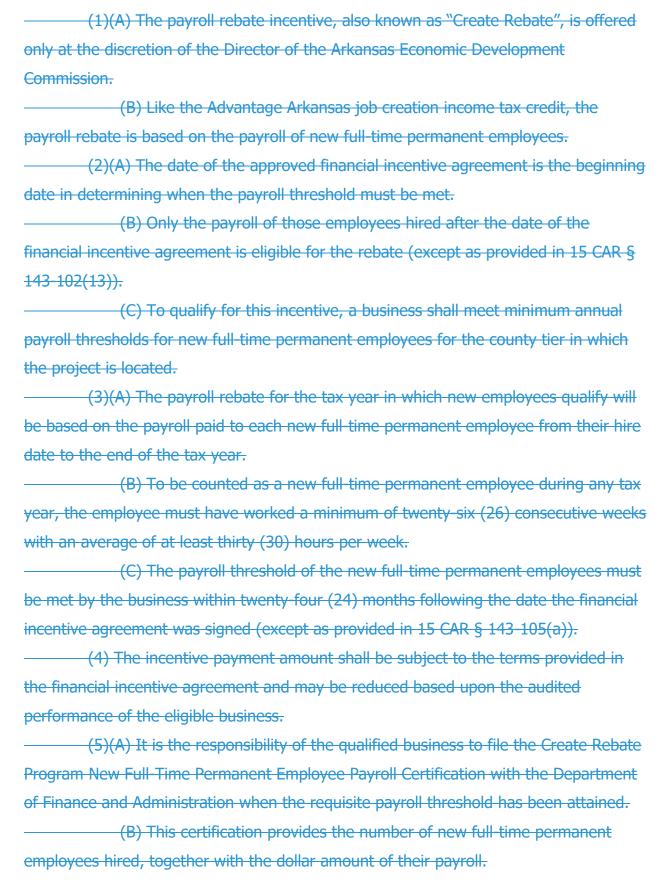
- credit based upon a percentage of the annual payroll paid to the new full-time permanent employees hired as a result of an approved project.
- (B) The tier in which the project is located determines the qualifying payroll threshold as well as the income tax benefit calculation.
- (2) Pursuant to Acts 2009, No. 716, for agreements with an effective date on or after July 31, 2009, in all tiers, in order to qualify for the incentives under this



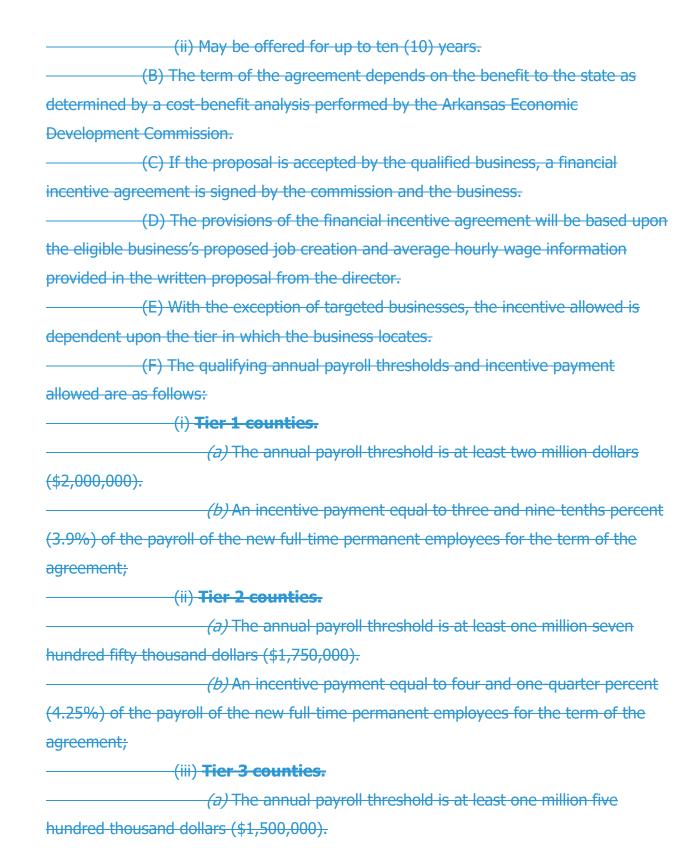


(1) An en	gibie business must have a payroli of new full-time
permanent employees of a	t least seventy-five thousand dollars (\$75,000) in order to
qualify.	
(ii) The	penefit is a tax credit equal to three percent (3%) of the
payroll paid to the new ful	time permanent employees for the term of the agreement;
and	
(D) Tier 4-co	ounties.
(i) An eli	gible business must have a payroll of new full-time
permanent employees of a	t least fifty thousand dollars (\$50,000) in order to qualify.
(ii) The	penefit is a tax credit equal to four percent (4%) of the
payroll paid to the new ful	time permanent employees for the term of the agreement.
(iii) A qu	alified business shall receive an additional tax credit of one
percent (1%) of the payro	II of new full-time permanent employees if the average hourly
wage paid to employees so	ubject to incentives under this act exceeds one hundred
twenty-five percent (125%	o) of the lesser of the county or state average hourly wage for
the county in which the qu	alified business locates or expands.
Exa	mple: An eligible business intends to expand its operation in
a Ti	er 3 county and will be adding twenty-five (25) new full-time
peri	manent employees earning fifteen dollars (\$15.00) per hour.
—————In a	Tier 3 county, a payroll threshold of seventy-five thousand
doll	ars (\$75,000) must be met to qualify for the job creation tax
crec	lit equal to three percent (3%) of payroll. (\$15.00 per hour x
2,08	80 hours = \$31,200 per employee x 25 jobs = \$780,000
ann	ual payroll x 3% = \$23,400 income tax credit earned for each
	ne next five (5) years) This example assumes that all twenty-
five	(25) new full-time permanent employees were hired at the
hea	inning of the first year and worked forty (40) hours per week.



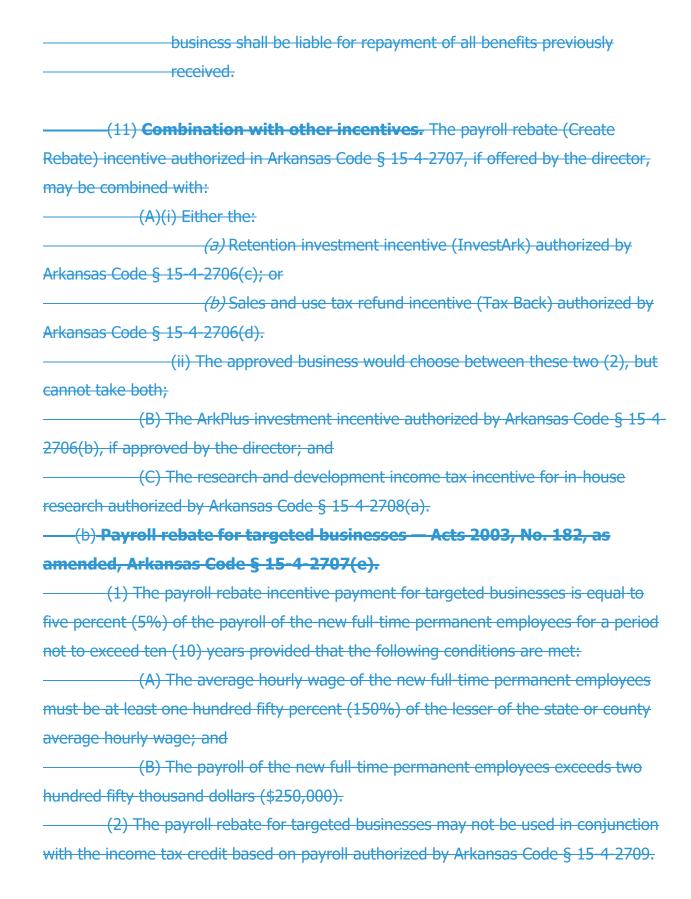


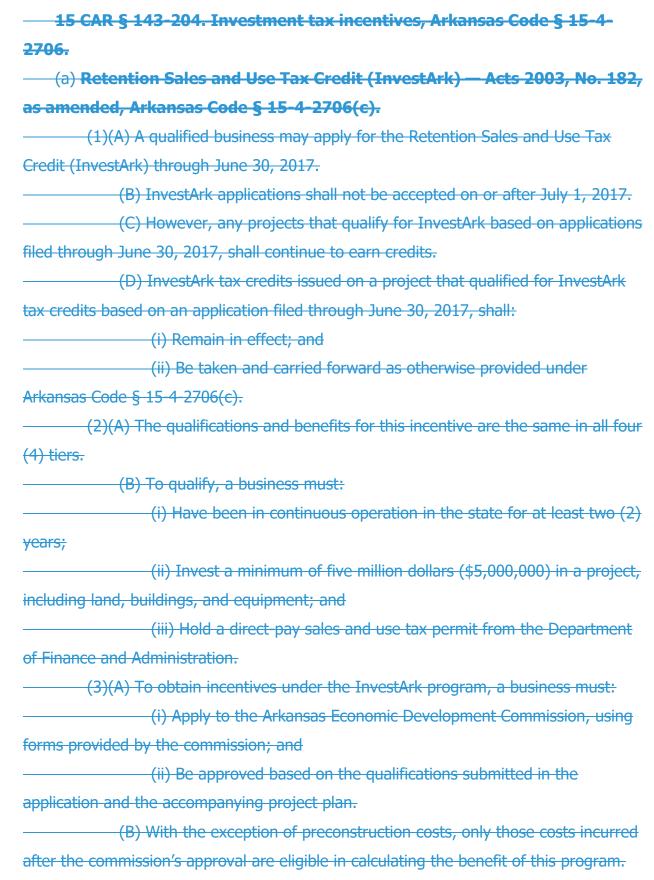
(C) Thereafter, the qualified business shall recertify the number of new
full-time permanent employees and payroll amounts annually at the end of each tax
year.
(D) The certification to the department is the mechanism to initiate the
verification audit.
(E) Therefore, the business must certify annually at the end of each tax
year to the department.
(6)(A) Pursuant to Acts 2009, No. 625, for financial incentive agreements with
an effective date on or after July 31, 2009, failure of the business to certify and
recertify payroll amounts annually to the department will result in:
(i) The department reducing the amount of rebate earned by ten
percent (10%) if not claimed within one (1) year from the end of the tax year in which
the rebate was earned; or
(ii) A one hundred percent (100%) forfeiture of the earned rebate if
not claimed within two (2) years from the end of the tax year in which the rebate was
earned.
(B) If a qualified business has failed to submit an initial certification with
the department within four (4) years after the date of the approved financial incentive
agreement the agreement will be terminated, unless the date has been extended by the
director.
(C) The offering of this incentive is intended to provide benefits to
businesses locating or expanding in Arkansas.
(D) In the event the approved business ceases the operations of the
facility for which the incentives are offered:
(i) The incentive agreement will be terminated; and
(ii) Any benefits accrued and not claimed as of the date of closure wi
be forfeited.
(7)(A) The payroll rebate (Create Rebate) benefit:
(i) Can only be authorized at the discretion of the director in the form
of a written proposal; and



(b) An incentive payment equal to four and one-hall percent
(4.5%) of the payroll of the new full-time permanent employees for the term of the
agreement;
(iv) Tier 4 counties.
(a) The annual payroll threshold is at least one million two
hundred fifty thousand dollars (\$1,250,000).
(b) An incentive payment equal to five percent (5%) of the
payroll of the new full-time permanent employees for the term of the agreement; and
(v) At the discretion of the director, an eligible business located in a
Tier 1, 2, 3, or 4 county may be authorized to receive an enhanced incentive of up to
five percent (5%) of the payroll of the new full-time permanent employees if the
following conditions are met:
(a) The business is considering a location in another state;
(b) The business derives at least fifty-one percent (51%) of its
sales from out of state; and
(c) The business proposes to pay wages in excess of one
hundred percent (100%) of the average wage of the county in which it locates.
(8) To qualify for this incentive, except for the enhanced incentive, the
average hourly wage paid to employees whose payroll is subject to incentives shall be
at least equal to the greater of:
(A) The lowest county average hourly wage as calculated by the
commission based on the most recent calendar year data published by the Division of
Workforce Services; or
(B) Twelve dollars and fifty cents (\$12.50).
(9) A qualified business shall receive an additional incentive of one percent
(1%) of the payroll of new full-time permanent employees if the average hourly wage
paid to employees subject to incentives exceeds the lesser of one hundred twenty-five
percent (125%) of the county or state hourly wage for the county in which the business
locates or expands.

(10)(A)	The benefits provided by this section shall be calculated based upon
the provisions of t	the financial incentive agreement.
(B)	The financial incentive agreement may contain language that will
adjust the benefit	based upon the audited performance of the eligible business.
	Example: An eligible business plans on locating in a Tier 2 county
	and plans to hire sixty-five (65) employees at an average wage of
	nineteen dollars (\$19.00) per hour. In Tier 2, a payroll rebate of four
	and one-quarter percent (4.25%) of payroll of new full-time
	permanent employees may be granted. A minimum annual payroll of
	one million seven hundred fifty thousand dollars (\$1,750,000) is
	required to qualify for this incentive. In this example, the director
	agrees to award the payroll rebate for a period of three (3) years.
	(\$19.00 per hour X 2,080 = \$39,520 per employee X 65 jobs =
	\$2,568,800 annual payroll X 4.25% = \$109,174 payroll rebate for
	each of the next three (3) years) This example assumes that all sixty-
	five (65) new full-time permanent employees were hired at the
	beginning of the first year and worked forty (40) hours per week.
	Notes: Benefit calculations could change given any of the following
	-circumstances:
	• The business decided to locate in another tier;
	 The director awards a shorter or longer term for the benefit;
	• The payroll increases due to either raises being given or new
	employees being added to the payroll;
	• The payroll decreases (if the payroll falls below the one million
	seven hundred fifty thousand dollar (\$1,750,000) threshold for
	qualification, the business may request an extension of up to two (2)
	years to regain the payroll threshold); and
	• If the business fails to regain the payroll threshold amount, the





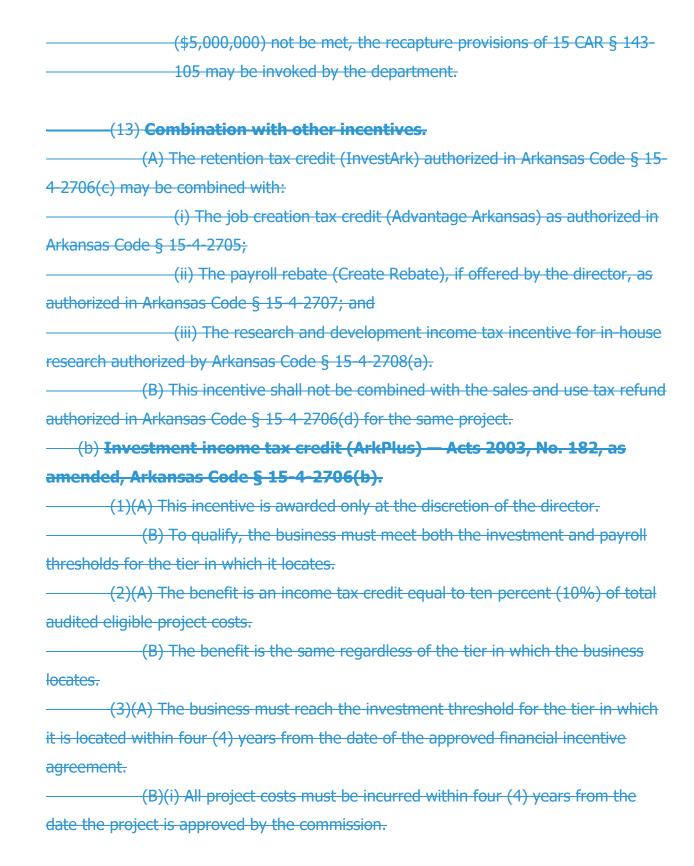
(4)(A) The project plan shall clearly identify:
(i) The scope of the project;
(ii) The time frame in which the project is to be started and
completed; and
(iii) A complete listing of estimated project expenditures.
(B) All project costs must be incurred within four (4) years from the date
the project is approved by the commission.
(C)(i) However, a qualified business that enters into a lease for building of
equipment for a period of at least five (5) years may count the lease payments for the
first five (5) years of the lease agreement as qualifying expenditures.
(ii) The first five (5) years of qualified lease payments should be
claimed in the expenditure year in which the lease is signed.
(5)(A) A company that filed an InvestArk application with the commission
between June 22–28, 2017, may be approved by the Director of the Arkansas Economic
Development Commission to have six (6) years to incur project costs if a positive return
on taxpayer investment is met.
(B) A company must have:
(i) Had an InvestArk application approved on or after June 22, 2017;
and
(ii) The director determine that the portion of the qualified project to
be completed in the forty-nine-month to seventy-two-month extension period will have
a positive return on taxpayer's investment equal to or greater than the amount of
retention tax credits issued.
(C) If the director approves an extension, the tax credits earned may be
taken beginning on and after July 1, 2023.
(D) The maximum amount of tax credits that may be used by a qualified
applicant in any fiscal year for this extension period is seven hundred fifty thousand
dollars (\$750,000).
(E) To determine a positive return on taxpayer's investment a company
must submit documentation to the commission stating:

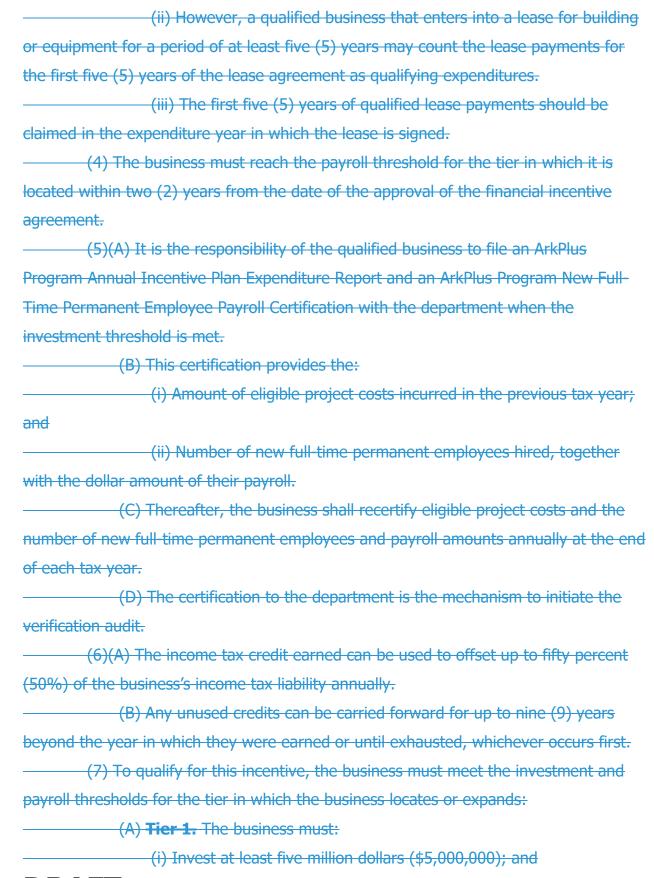
(1)) Enhanced or retained productivity (expressed in dollars);
(i	i) Enhanced or retained revenue, sales, or output (expressed in
dollars);	
(ii	ii) Enhanced or retained employee compensation (expressed in
dollars);	
(i	v) Enhanced or retained taxes paid (expressed in dollars); or
(\) Any other quantifiable information requested by the commission
that the taxpayer m	ay provide as reasonable proof of a positive return of the taxpayer's
investment.	
(6)(A) The	project plan may be revised by written amendment filed with the
commission.	
(B) Th	e commission's approval of an amendment will not extend the time
period in which proj	ect costs may be incurred.
(C) An	nendments that exceed twenty-five percent (25%) of the original
project plan's estima	ated cost will not be considered and shall be submitted as a new
project.	
(7)(A) The	benefit of the InvestArk program is a sales and use tax credit base
on a percentage of	qualified expenditures.
(B) Th	e percentage used to determine the amount of sales and use tax
credits earned is five	e-tenths of one percent (0.5%) above the state sales and use tax
rate in effect at the	time the financial incentive agreement is signed with the
commission.	
(8)(A) The	credit may be applied against the business's direct-pay state sales
and use tax liability	in the year following the year of expenditure.
(B) An	y unused credits may be carried forward for a period of up to five
(5) years.	
(C) In	any year, tax credits taken under this program cannot exceed fifty
percent (50%) of th	e business's sales and use tax liability on taxable purchases.

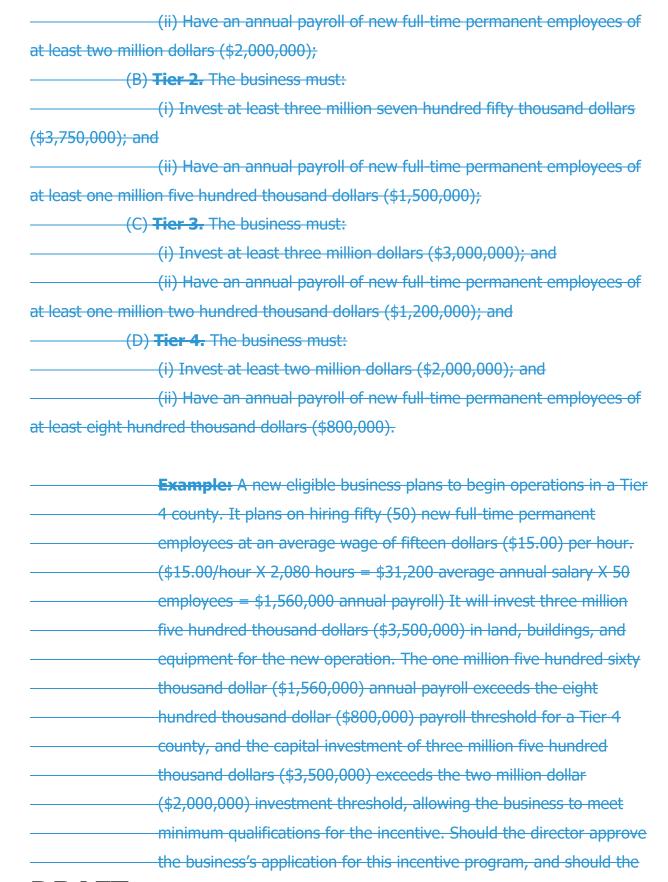
(9) Once a business has qualified for the InvestArk incentive, the director will
notify the department that the project has been approved and will transmit the
documents upon which the qualification was based.
(10)(A) The commission's approval of any application is for content only.
(B) It does not constitute approval of all items listed on the application or
the project plan.
(C) These items will be reviewed and either approved or ruled ineligible by
an audit by the Revenue Division of the department.
(11)(A) The department is authorized to conduct an audit to determine
eligibility of reported project expenditures.
(B) The audit may be conducted after credits have been issued and used.
(C) If expenditures upon which credits have been issued are determined
to be ineligible, the amount of credit will be adjusted, which may result in the
repayment of all taxes.
(12)(A) It is the responsibility of the qualified business to file an Annual Project
Expenditure Report (Form InvestArk 2000) annually at the end of each calendar year
with the department to report the eligible project expenditures incurred during the
preceding calendar year.
(B) Upon determining the amount of credit earned during that calendar
year, the department shall issue a memorandum of credit to the qualified business.
(C) The issuance of the credit does not imply the eligibility of the
expenditures, which are subject to audit at a later date.
Example: A manufacturer is adding a new product line and will
require additional space and new processing equipment. The total
cost of the project, with land, building, and equipment, totals seven
million seven hundred fifty-four thousand dollars (\$7,754,000). The
business has been in operation for over fifteen (15) years in
Arkansas, meeting the two-year residency requirement of this
incentive. After being approved by and signing a financial incentive

agreement with the commission, the manufacturer is eligible for a sales and use tax credit of seven percent (7%) (one-half of one percent (0.5%) over the rate of six and one-half percent (6.5%) as of July 1, 2013). At the end of each calendar year, until project completion, the business shall certify to the department the amount of project expenditures incurred during the previous calendar year and shall be granted a sales and use tax credit. If the business had spent seven million seven hundred fifty-four thousand dollars (\$7,754,000) in eligible expenditures in the previous calendar year, the total sales and use tax credit based upon a sales tax rate of six and one-half percent (6.5%) (\$7,754,000 X 7%) would be five hundred forty-two thousand seven hundred eighty dollars (\$542,780), which could be used the following year and any unused credit could be carried forward for an additional five (5) years. In any year, the amount of the sales and use tax credit used cannot exceed fifty percent (50%) of the business's sales and use tax liability on taxable purchases. Notes: The benefit calculations above could change given any of the following circumstances: The sales tax rate was increased or decreased prior to the signing of a financial incentive agreement with the commission. Once a business has signed a financial incentive agreement with the commission, the sales tax rate and benefit will be "locked in" regardless of any subsequent change to the sales tax rate during the term of the project; or The project fails to reach the minimum investment threshold of five million dollars (\$5,000,000). Should benefits be received for project

expenditures and the threshold expenditure of five million dollars

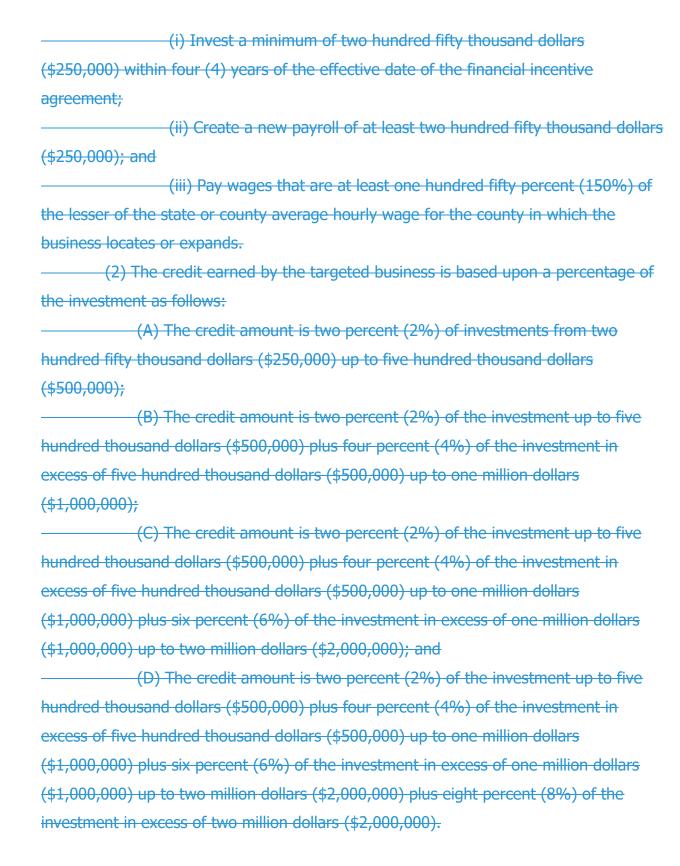


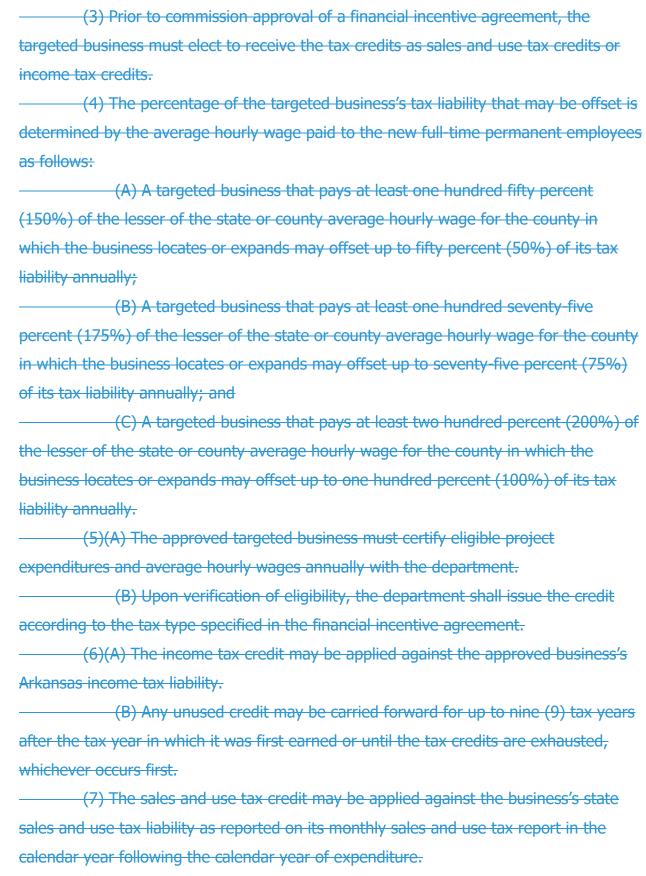




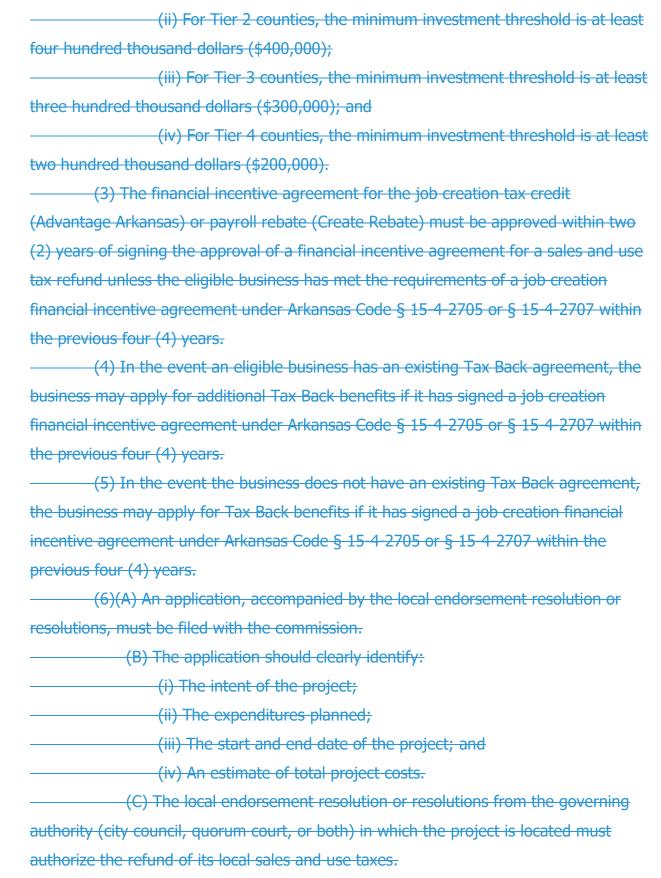
business spend precisely three million five hundred thousand dollars
(\$3,500,000), it would earn an income tax credit of three hundred
fifty thousand dollars (\$350,000) that could be carried forward for up
to nine (9) years beyond the year it was first earned. This example
assumes all new full-time permanent employees were hired at the
beginning of the first year and work forty (40) hours per week.
Notes: The benefit calculation noted above could change given any
of the following circumstances:
• The business fails to reach either the investment or payroll
threshold required to receive the benefit of this incentive program.
Failure to meet investment or payroll requirements could necessitate
the implementation of recapture provisions provided for in 15 CAR §

(8) Combination with other incentives. The investment income tax credit
authorized by Arkansas Code § 15-4-2706(b), if approved by the director, may be
combined with the:
(A) Payroll rebate (Create Rebate) authorized by Arkansas Code § 15-4-
2707, if approved by the director; and
(B) Research and development income tax incentive for in-house research
authorized by Arkansas Code § 15-4-2708(a).
(c) Technology-based enterprises investment income tax and sales and
use tax credit (Targeted ArkPlus) — Acts 2003, No. 182, as amended,
Arkansas Code § 15-4-2706(b)(7).
(1)(A) At the discretion of the director, a targeted business may earn an
income tax credit or a sales and use tax credit based upon new investment.
——————————————————————————————————————





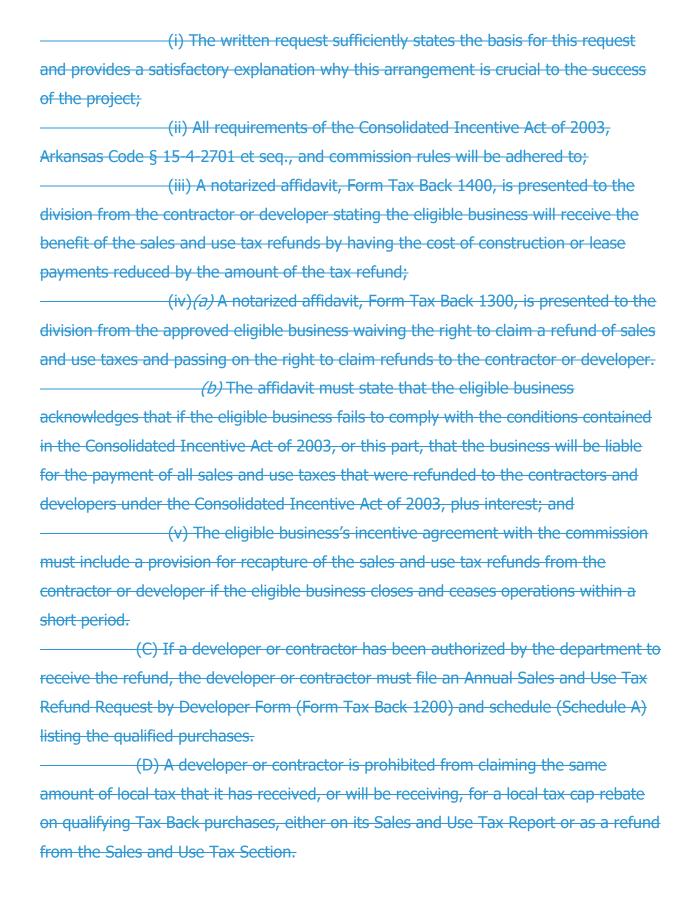
(8) The tax hability reported on the business's monthly sales and use tax that
may be offset by the credit may be derived from:
(A) Sales made by the approved business and collected from the
customer;
(B) Use taxes accrued by the business for out-of-state purchases; and
(C) Sales and use taxes accrued and reported on the business's monthly
direct-pay report.
(9)(A) The credit may not be applied against any taxes collected from the
business by the seller.
(B) Any unused credit may be carried forward for a period up to nine (9)
calendar years after the calendar year in which it was first earned.
(d) Sales and use tax refund for new and expanding eligible businesses
(Tax Back) — Acts 2003, No. 182, as amended, Arkansas Code § 15-4-
2706(d).
(1)(A) This incentive program is available to any eligible business that meets
the qualifications for investment and payroll thresholds for the tier in which it locates of
expands and is approved for benefits by the commission.
(B) The commission's approval is contingent upon receipt of a completed
application and a local endorsement resolution from the city or county, or both, that
authorizes the refund of its local taxes to the eligible business.
(2) To qualify for a refund under this program, the qualified business must
meet the:
(A) Eligibility criteria of the Advantage Arkansas, Arkansas Code § 15-4-
2705, or Create Rebate, Arkansas Code § 15-4-2707, job creation incentive programs;
and
(B) Minimum investment thresholds for the tier in which the qualified
business expands or locates, as follows:
(i) For Tier 1 counties, the minimum investment threshold is at least
five hundred thousand dollars (\$500,000):



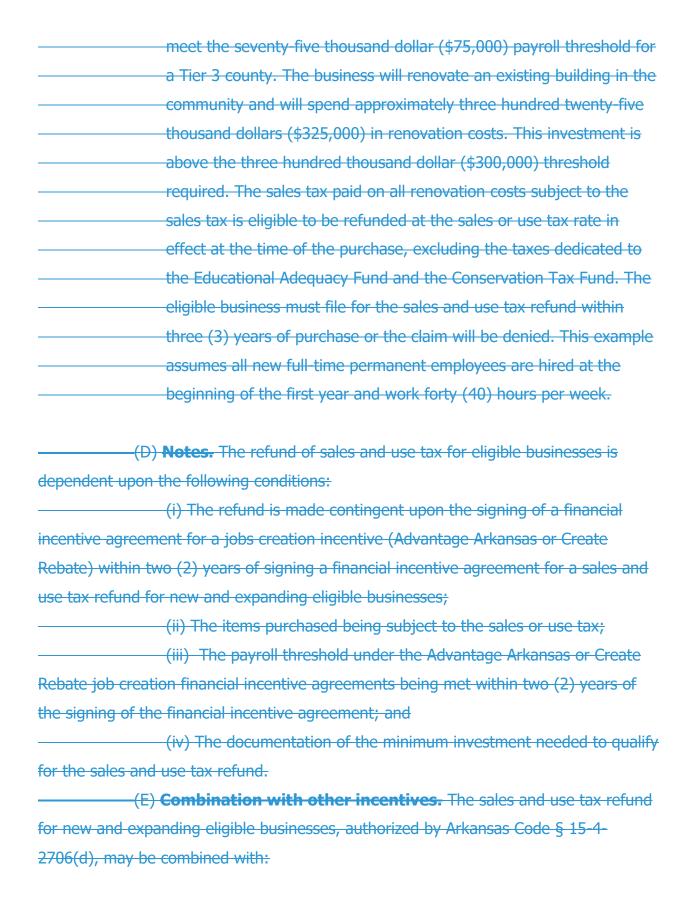
(7)(A) The purpose of the resolution is to:
(i) Approve the business's participation in the program; and
(ii) Specify that the municipality or county authorizes the department
to refund all or part of any sales and use tax levied at the local level.
(B) The municipality or county in which the eligible business is located
may authorize the refund of any sales or use tax levied by it but may not authorize the
refund of any sales and use tax not levied by it.
(8)(A) This incentive program grants a refund of state and local sales and use
taxes paid on the purchases of the material used in the construction of a building or
buildings or any addition, modernization, or improvement to a new or expanding eligible
business.
(B) A sales and use tax refund is also allowed for the purchases of taxable
machinery or equipment associated with the building or project.
(9) A refund shall not be authorized for:
(A) Routine operating expenditures;
(B) The purchase of replacements of items previously purchased as part
of a project unless the items previously purchased will not enable the project to
function as originally intended;
(C) Licensed motor vehicles; or
(D) Expenditures for routine repair and maintenance that do not result in
new construction or expansion.
(10) For projects approved on or after July 1, 2005, the refund of state sales
and use taxes shall not include the refund of taxes dedicated to the:
(A) Educational Adequacy Fund, eight hundred seventy-five thousandths
of a percent (.875%); or
(B) Conservation Tax Fund, one hundred twenty-five thousandths of a
percent (.125%).
(11)(A) All project costs must be incurred within four (4) years from the date
the project is approved by the commission.

(B) The project plan may be revised by written amendment filed with and
approved by the commission.
(C) The commission's approval of an amendment will not extend the time
period in which project costs may be incurred.
(D) Amendments that exceed twenty-five percent (25%) of the original
project plan's estimated cost:
(i) Will not be approved by the commission; and
(ii) Shall be submitted as a new project.
(12) Eligible business Tax Back refunds.
(A) For an eligible business to receive a refund, the business must file an
Annual Sales and Use Tax Refund Request Form (Form Tax Back 1000) and schedule
(Schedule A) listing the qualified purchases at the end of each calendar year.
(B) An approved eligible business may receive a sales and use tax refund
on eligible purchases made by a contractor or developer performing work, or building a
structure for lease or sale to the approved eligible business provided the eligible
business submits to the department's Tax Credits/Special Refunds Section a notarized
Contractor's/Developer's Waiver of Refund Form (Form Tax Back 1100) completed by
the contractor or developer waiving any and all rights to claim a refund of sales and us
taxes.
(C) An approved business is prohibited from claiming a refund for the
same amount of local tax that:
(i) The approved business has received, or will be receiving, for a
local tax cap rebate on qualifying Tax Back purchases, either:
(a) On the approved business's Sales and Use Tax Report; or
(b) As a refund from the Sales and Use Tax Section; or
(ii) The contractor or developer has received, or will be receiving, a
local tax cap rebate on qualifying Tax Back purchases, either:
(a) On the contractor's or developer's Sales and Use Tax Report;
Or
(b) As a refund from the Sales and Use Tax Section.

Example: An eligible business approved for the Tax Back program
makes a purchase of eligible items on an invoice totaling ten
thousand dollars (\$10,000). Assuming a local tax rate of one percent
(1%), the total local tax due is one hundred dollars (\$100). The local
tax cap for business purposes is limited to the tax due on two
thousand five hundred dollars (\$2,500). If the business claims a local
tax cap rebate for the seventy-five dollars (\$75.00), the tax paid in
excess of the tax due on two thousand five hundred dollars (\$2,500),
on its Sales and Use Tax Report or as a refund from the Sales and
Use Tax Section, the business's Tax Back refund is limited to twenty-
five dollars (\$25.00) for this invoice. If the business has not claimed,
or does not plan to claim, the local tax cap rebate, it may claim the
full amount of local tax paid on its Tax Back Sales and Use Tax
Refund Request.
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(A)(i) Developers building a structure for lease to an approved eligible
business and contractors performing work for an approved eligible business may be
permitted to receive a sales and use tax refund on eligible purchases directly from the
state only when the approved eligible business requests from the department's Tax
Credits/Special Refunds Section, in writing, that:
(a) This be permitted; and
(b) States the basis for this request.
(ii) This request must be approved by the department prior to the
signing of the financial incentive agreement.
(B) The Revenue Division of the Department of Finance and
Administration will authorize this procedure only when it is satisfied that:



	Example: A developer or contractor makes a purchase of eligible
i	tems on an invoice totaling ten thousand dollars (\$10,000). Assuming
	a local tax rate of one percent (1%), the total local tax due is one
	nundred dollars (\$100). The local tax cap for business purposes is
	imited to the tax due on two thousand five hundred dollars (\$2,500).
I	f the developer or contractor claims a local tax cap rebate for the
<u>S</u>	seventy-five dollars (\$75.00), the tax paid in excess of the tax due on
t	wo thousand five hundred dollars (\$2,500), on its Sales and Use Tax
F	Report or as a refund from the Sales and Use Tax Section, its Tax
	Back refund is limited to twenty-five dollars (\$25.00) for this invoice.
I	f the contractor or developer has not claimed, or does not plan to
	claim, the local tax cap rebate, it may claim the full amount of local
t	ax paid on its Tax Back Sales and Use Tax Refund Request.
(14) Filin	g requirements.
	: is the responsibility of the eligible business to file an Annual Sales
	d Request Form (Tax Back 1000) and supporting schedule (Schedule
	ment at the end of each calendar year.
(B) U	pon determining the amount of eligible refund, the department shall
issue a refund to th	ne eligible business.
(C) A	Il claims for sales and use tax refunds under this incentive program
must be filed within	n three (3) years from the date of the qualified purchase or
purchases or those	- claims will be denied.
	Example: An eligible business is planning to expand its operations in
	a Tier 3 county and has signed an Advantage Arkansas agreement
	vith the commission. The business plans to hire seven (7) new full-
t	ime permanent employees at twelve dollars (\$12.00) per hour.
	\$12.00/hour X 2,080 hours = \$24,960 average annual wage X seven
	7) new employees = \$174,720 annual payroll) The business would



(1) Advantage Arkansas, as authorized by Arkansas Code § 15-4-2705
or Create Rebate, as authorized by Arkansas Code § 15-4-2707, if approved by the
director; and
(ii) The research and development income tax incentive for in-house
research authorized by Arkansas Code § 15-4-2708(a).
(e) Sales and use tax refund for targeted businesses—Acts 2003, No.
182, as amended, Arkansas Code § 15-4-2706(e).
(1)(A) This incentive program extends the benefits of the Tax Back sales and
use tax refund program to a category of new and expanding eligible businesses referre
to as "targeted businesses".
(B) This incentive is offered only at the discretion of the director.
(C) Targeted businesses are found within six (6) growing business sectors
that include:
(i) Advanced materials and manufacturing systems, with emphases
on the following:
(a) Photonics;
(b) Nanotechnology;
(c) Electronics manufacturing;
(d) Environmental issues related to material and manufacturing;
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(f) Energy efficient storage devices;
(ii) Agriculture, food, and environmental sciences, with emphases on
the following:
(a) Rice;
(b) Poultry;
(c) Aquaculture;
(e) Agricultural medicine;
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(a) Nutrition:

(h) Waste minimization;
(i) Energy reduction;
(j) Distributed energy generation; and
(k) Spatial technology;
(iii) Biotechnology, bioengineering, and life sciences, with emphases
on the following:
(a) Genetics;
(b) Oncology;
(c) Geriatrics;
(d) Neuroscience;
(e) Medical devices;
(f) Rehabilitation;
(g) Biopharmaceuticals and drug discovery;
(h) Protein structure and function;
(i) Cell molecular biology; and
(j) Sensor technology;
(iv) Information technology, with emphases on the following:
(a) Knowledge and data engineering;
(b) Database systems;
(c) Distributed systems;
(d) Wireless systems;
(e) Software development; and
(f) State-of-the-art applications of information technology to:
(1) Bioinformatics; and
(2) Health care;
(v) Transportation logistics, with emphases on the following:
(a) Intelligent material handling;
(b) Automated systems; and
(c) Transportation management systems; and
(vi) Bio-based products, with emphases on the following:

(a) Biodiesel;
(b) Ethanol;
(c) Methanol;
(a) Synthetic transportation fuels;
(e) Adhesives;
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(g) Automotive components; and
(h) Engineered products from nontraditional biomass sources.
(2)(A) To qualify as a targeted business, the commission must:
(i) Determine that the targeted business must have an annual payroll
of at least one hundred thousand dollars (\$100,000); and
(ii) Demonstrate evidence of an equity investment in the targeted
business of at least two hundred fifty thousand dollars (\$250,000).
(B) A targeted business with an annual payroll in excess of one million
dollars (\$1,000,000) will not qualify for the targeted business sales and use tax refund
but may be eligible for other incentives offered through the Consolidated Incentive Act
of 2003, Acts 2003, No. 182, as amended.
(C) The preceding payroll requirements:
(i) Apply only to the initial eligibility determination; and
(ii) Do not preclude a targeted business from receiving incentives if,
at any time after the financial incentive agreement is approved, the actual payroll of the
targeted business does not satisfy the payroll requirements.
(3)(A) In addition to meeting the targeted business eligibility requirements, the
business must meet the eligibility criteria of the targeted business payroll income tax
credit incentive program, Arkansas Code § 15-4-2709.
(B) A signed financial incentive agreement for targeted payroll income tax
credits must be signed within two (2) years of signing a financial incentive agreement
for a sales and use tax refund.
(4) To be eligible for the incentives under this program, the targeted business
shall meet all payroll creation requirements of an approved financial incentive

agreement under Arkansas Code § 15-4-2707 or § 15-4-2709 within two (2) years of
the date of the approved financial incentive agreement under this subsection or other
subsequent date if approved by the director.
(5)(A) An application accompanied by a local endorsement resolution must be
filed with the commission.
(B) The application should clearly identify:
(i) The intent of the project;
(ii) The expenditures planned;
(iii) The start and end date of the project; and
(iv) An estimate of the total project costs.
(C) The local endorsement resolution from the governing authority (city
council, quorum court, or both) in which the project is located must authorize the
refund of its local sales and use taxes.
(6)(A) The purpose of the resolution is to:
(i) Approve the specific entity's participation in the program; and
(ii) Specify that the municipality or county authorizes the department
to refund all or part of any sales and use tax levied at the local level.
(B) The municipality or county in which the eligible business is located
may authorize the refund of any sales or use tax levied by it but may not authorize the
refund of any sales and use taxes not levied by it.
(7)(A) This incentive program grants a refund of state and local sales and use
taxes paid on the purchases of the material used in the construction of a building or
buildings or any addition, modernization, or improvement to a new or expanding eligible
business.
(B) A sales and use tax refund is also allowed for the purchases of taxable
machinery or equipment associated with the building or project.
(8) A refund shall not be authorized for:
(A) Routine operating expenditures;

(b) The purchase of replacement items previously purchased as part of a
project unless the items previously purchased will not enable the project to function as
originally intended;
(C) Licensed motor vehicles; or
(D) Expenditures for routine repair and maintenance that do not result in
new construction or expansion.
(9) For projects approved on or after July 1, 2005, the refund of state sales
and use taxes shall not include the refund of taxes dedicated to the:
(A) Educational Adequacy Fund, eight hundred seventy-five thousandths
of a percent (.875%); or
(B) Conservation Tax Fund, one hundred twenty-five thousandths of a
percent (.125%).
(10)(A) All project costs must be incurred within four (4) years from the date
the project is approved by the commission.
(B) The project plan may be revised by written amendment filed with and
approved by the commission.
(C) The commission's approval of an amendment will not extend the time
period in which project costs may be incurred.
(D) Amendments that exceed twenty-five percent (25%) of the original
project plan's estimated cost:
(i) Will not be approved by the commission; and
(ii) Shall be submitted as a new project.
(11)(A) It is the responsibility of the qualified targeted business to file a
Targeted Business Tax Back Program Annual Sales and Use Tax Refund Request (Form
TB 1000) annually at the end of each calendar year to the department to request a
refund of sales and use taxes paid on eligible project expenditures incurred during the
preceding calendar year.
(B) Upon determining the amount of the eligible refund, the department
shall issue a refund to the qualified business.

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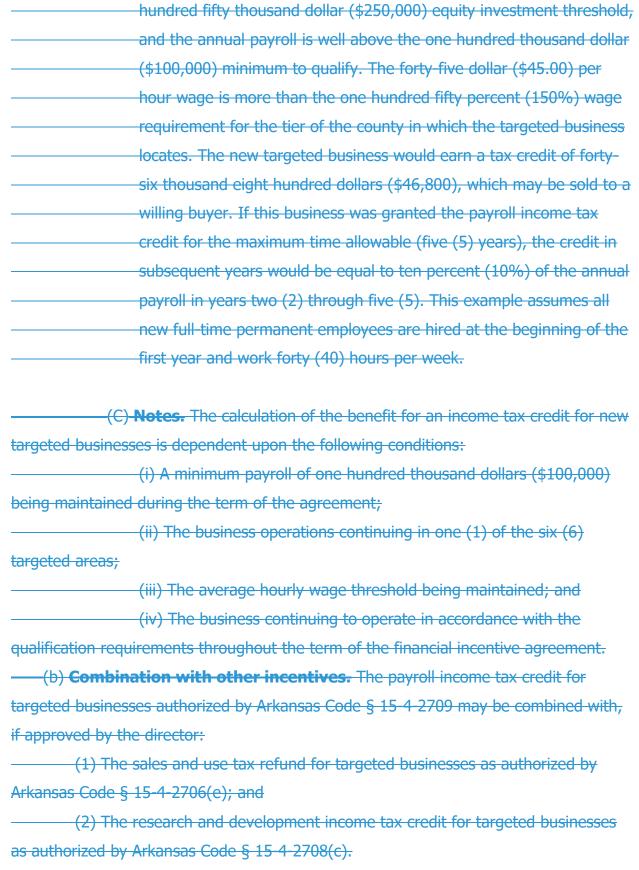
(C) All claims for sales and use tax refunds under this incentive program
must be filed within three (3) years from the date of the qualified purchase or
purchases or those claims will be denied.
Example: A new start-up computer software design firm is beginning
business. It has received an equity investment from a venture capital
firm in the amount of seven hundred fifty thousand dollars
(\$750,000), which exceeds the two hundred fifty thousand dollar
(\$250,000) threshold, to help it get started. It plans on hiring six (6)
new full-time permanent employees at an average hourly wage of
twenty-eight dollars (\$28.00) per hour. (\$28.00/hour X 2,080 hours =
\$58,290 average annual salary X six (6) employees = \$349,440
annual payroll) The business's annual payroll exceeds the threshold of
one hundred thousand dollars (\$100,000), so the business meets the
payroll and investment requirements necessary to qualify for the sales
and use tax refund. Eligibility is also dependent upon being approved
by the director. The eligible targeted business must file for the sales
and use tax refund within three (3) years of purchase or the claim will
be denied. This example assumes all new full-time permanent
employees are hired at the beginning of the first year and work forty
(40) hours per week.
(D) Notes. The refund of sales and use tax for eligible targeted
businesses is dependent upon the following conditions:
(i) The refund is made contingent upon the signing of a financial
incentive agreement for a targeted payroll income tax credit for targeted businesses
incentive within two (2) years of signing a financial incentive agreement for a sales and
use tax refund for a targeted business;
(ii) The items purchased being subject to the sales or use tax;
(iii) The business meeting the average wage requirement;

(IV) The payroll threshold being met within two (2) years of the
signing of the financial incentive agreement; and
(v) The documentation that the targeted business has received an
equity investment in excess of two hundred fifty thousand dollars (\$250,000).
(12) Combination with other incentives. The sales and use tax refund for
targeted businesses authorized by Arkansas Code § 15-4-2706(e) may be combined
with, if approved by the director, the:
(A) Targeted job creation income tax credit as authorized by Arkansas
Code § 15-4-2709; and
(B) Targeted research and development tax credit authorized by Arkansas
Code § 15-4-2708(c).
15 CAR § 143-205. Targeted business special incentive, Arkansas Code §
15-4-2709.
— (a) Payroll income tax credit for targeted businesses — Acts 2003, No.
182, as amended, Arkansas Code § 15-4-2709.
(1)(A) The payroll income tax credit for targeted businesses assists the start-
up of businesses in targeted sectors that pay significantly more than the state or county
average wage of the county in which the business locates.
(B) This incentive is offered only at the discretion of the Director of the
Arkansas Economic Development Commission.
(C) To qualify for this incentive, the business must be included in one of
six (6) targeted business sectors that include:
(i) Advanced materials and manufacturing systems, with emphases
on the following:
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(5) 1.1332.11.557
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(b) Nanotechnology;

(d) Wireless systems;
(e) Software development; and
(f) State-of-the-art applications of information technology to:
(1) Bioinformatics; and
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(v) Transportation logistics, with emphases on the following:
(a) Intelligent material handling;
(b) Automated systems; and
(c) Transportation management systems; and
(vi) Bio-based products, with emphases on the following:
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(b) Ethanol;
(c) Methanol;
(d) Synthetic transportation fuels;
(e) Adhesives;
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(g) Automotive components; and
(h) Engineered products from nontraditional biomass sources.
(2)(A) The business must also have an annual payroll of not less than one
hundred thousand dollars (\$100,000) or more than one million dollars (\$1,000,000).
(B) This requirement only applies to the initial eligibility determination and
does not preclude qualified businesses from receiving incentive if, at any time after the
financial incentive agreement has been approved, actual payroll does not satisfy the
requirements.
(C) A business must show proof of an equity investment of at least two
hundred fifty thousand dollars (\$250,000) and pay average hourly wages in excess of
one hundred fifty percent (150%) of the county or state average hourly wage,
whichever is less.
(3)(A) The benefit for a targeted business is an income tax credit equal to ten
percent (10%) of its annual payroll, with a cap of one hundred thousand dollars

(\$100,000) per year in earned income tax credits for a business that qualifies and is
approved for this incentive.
(B) Any unused credits can be carried forward for up to nine (9) years
beyond the year in which they were earned or until exhausted, whichever occurs first.
(4)(A) The incentive may be offered for a period not to exceed five (5) years.
(B) The five-year period begins on January 1 of the following year in
which the financial incentive agreement is approved and may not extend beyond five
(5) years from that date.
(C) Unlike the other incentives, the calculation of this income tax credit
may include existing employees in the calculation of payroll to qualify for this benefit.
(D) To claim these benefits, the targeted business must sign a financial
incentive agreement with the Arkansas Economic Development Commission.
(5)(A) Income tax credits are earned in the tax year in which the new full-time
permanent employees qualify after the financial incentive agreement was signed with
the commission.
(B)(i) At the end of each tax year, during the term of the agreement, it is
the responsibility of the qualified targeted business to file the Targeted Business Payro
Tax Credit Employee Annual Payroll Certification with the Department of Finance and
Administration.
(ii) This certification provides the number of new permanent
employees and their payroll during the preceding tax year and is the mechanism to
initiate the verification audit.
(iii) Therefore, the business must certify annually at the end of each
tax year to the department.
(6)(A) A unique feature of this incentive is the ability of the business that
earns the targeted business income tax credit to sell the credits upon approval of the
director.
(B) The business must make application to the commission for the sale o
credits.

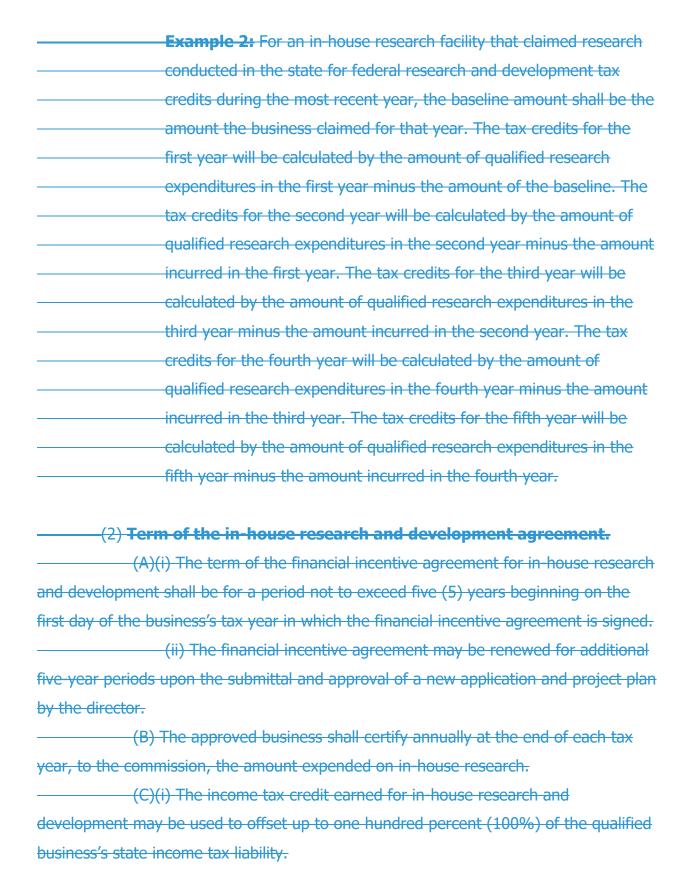
(C) The original holder of tax credits under this section may sell its tax
credits only one (1) time, in whole or in part, the balance of which shall be used by the
holder within the time frame allowed.
(D) The commission may assist the business in finding a buyer for the tax
credits.
(E) Any sale of tax credits through this incentive will be fully documented
by the commission and that information will be transmitted to the Revenue Division of
the Department of Finance and Administration.
(7)(A) The buyer of the tax credit shall be subject to the same provisions for
carry forward of the tax credits as the business that originally earned the credits.
(B) Since one (1) of the allowable costs under the research and
development tax credits is the salary of a person performing research, a business
earning payroll income tax credits for targeted businesses is prohibited from earning
research and development tax credits, as authorized by Arkansas Code § 15-4-2708 or
§ 26-51-1102(b), for the same expenditure.
Example: A new biotechnology firm, which is a client of the
BioVentures Incubator, is leaving the incubator to expand its
business. It has received a Small Business Innovation Research
(SBIR) grant of seven hundred thousand dollars (\$700,000) to
continue its efforts with assistance from the National Institutes of
Health. Currently, the business has one (1) employee, a former
University of Arkansas for Medical Sciences research scientist who
holds the patent on the biomedical device that is to be the business's
first product. The business plans on hiring four (4) new full-time
permanent employees for a total of five (5) full-time permanent
employees. The average hourly wage of the five (5) employees will
be forty-five dollars (\$45.00) per hour. (\$45.00/hour X 2,080 =
\$93,600 average annual salary X 5 employees = \$468,000 annual
payroll) The SBIR grant allows the new business to meet the two



15 CAR § 143-206. Research and development income tax credits, Arkansas Code **§ 15-4-2708**. (a)(1) This section deals with incentives for research and development. (2) The different tax credits are intended to provide incentives for in-house research of several kinds and research and development in start-up, technology-based enterprises. (3) It is important for the applicant to understand the different incentives and to select the most appropriate for the eligible research and development activity. (4) In summary: (A)(i) The incentives for in-house research are intended for: (a) The ongoing in-house research programs of mature firms; (b) Younger, "targeted" firms engaged in in-house research over limited five-year periods; and (c) Emerging firms engaged in strategic research and development over limited five-year periods. (ii) Generally, these incentives may not be combined with one another, i.e., with other in-house research incentives, but may be combined with incentives for research with universities; and (B)(i) The incentive for research and development under programs of the Division of Science and Technology of the Arkansas Economic Development Commission is intended for: (a) Companies in the earliest stages of development; and (b) Knowledge-based companies that require a continuing research and development program to remain competitive. (ii) Generally, this incentive may not be combined with other research and development incentives. (b)(1) Unless otherwise specified, the research and development application and project plan shall be the basis for the Arkansas Economic Development Commission's decision to approve tax credit treatment for research and development expenditures.

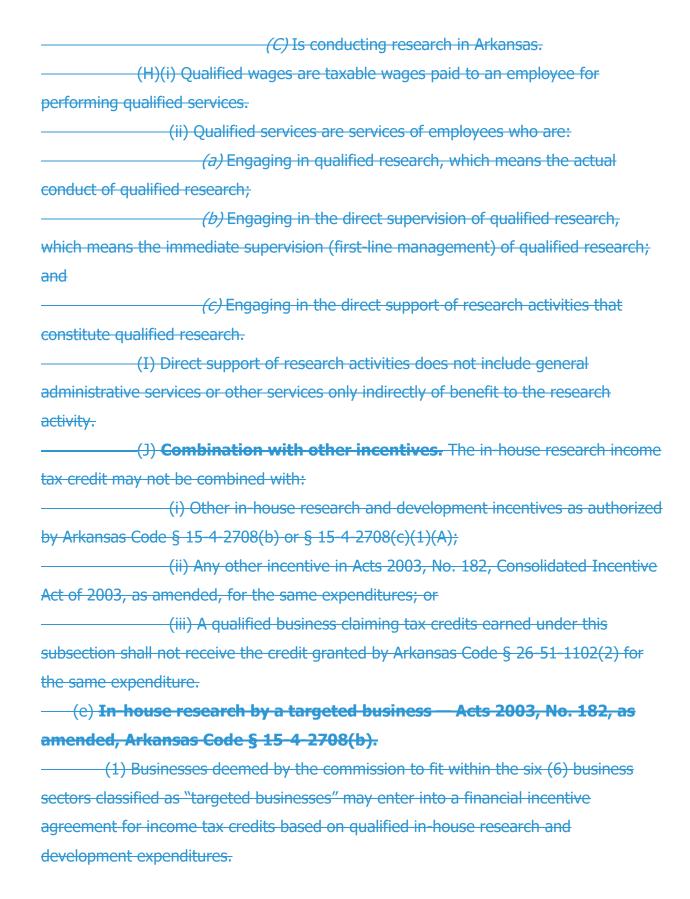
(2) It is the responsibility of the business to claim any research and
development income tax credits that may have been earned under authority granted by
Acts 2003, No. 182, as amended.
(3) At the discretion of the commission, an approved application and project
plan may serve as the financial incentive agreement.
(4) Claims for research and development tax credits shall require the business
to file with its tax return a Certificate of Tax Credit issued by the commission.
(c)(1) The term of the research and development financial incentive agreements
under Arkansas Code § 15-4-2708 is five (5) years beginning on the first day of the
business's tax year in which the financial incentive agreement is signed and may not
extend beyond five (5) years from that date.
(2) The specific requirements to qualify for research and development
incentives follow.
(d) In-house research — Acts 2003, No. 182, as amended, Arkansas Code
§ 15-4-2708.
(1) In-house research and development facilities, Arkansas Code §
15-4-2708(a)(1).
(A)(i) In-house research includes experimental, clinical, or laboratory
activities to develop new uses of products, but only to the extent that activity is
conducted in Arkansas.
(C) An all allele business that has not been more founds and according
(ii) An eligible business that has not been previously approved for
incentives under this subsection and that conducts in house research that has been
incentives under this subsection and that conducts in house research that has been
incentives under this subsection and that conducts in house research that has been approved for federal research and development tax credits may qualify, at the
incentives under this subsection and that conducts in house research that has been approved for federal research and development tax credits may qualify, at the discretion of the Director of the Arkansas Economic Development Commission, for in-
incentives under this subsection and that conducts in-house research that has been approved for federal research and development tax credits may qualify, at the discretion of the Director of the Arkansas Economic Development Commission, for in-house research income tax credits.
incentives under this subsection and that conducts in house research that has been approved for federal research and development tax credits may qualify, at the discretion of the Director of the Arkansas Economic Development Commission, for inhouse research income tax credits. (iii) The eligible business must make an application to the commission
incentives under this subsection and that conducts in house research that has been approved for federal research and development tax credits may qualify, at the discretion of the Director of the Arkansas Economic Development Commission, for inhouse research income tax credits. (iii) The eligible business must make an application to the commission generally describing the research to be undertaken and the estimated expenditures to

expenditures that exceeds the baseline established in the preceding year, for a period
of five (5) years, subject to extension at the discretion of the director.
(B) The initial baseline for a qualified business new to the incentives
offered under this subsection is the amount of research conducted in the state as
claimed for federal research and development tax credits during the most recent year.
(C) Tax credits for the first year shall be calculated based on the
incremental eligible expenditures for research and development at the end of the first
year minus the research and development expenditures as reported by the qualified
business for research and development tax credits initial baseline.
(D) Tax credits for succeeding years shall be calculated as the difference
between the current year's research conducted in the state and the previous year's
research conducted in the state.
Example 1: For an in-house research facility that did not claim any
research conducted in the state for federal research and development
tax credits during the most recent year, the base year is zero (0).
Therefore, in the first year following the date of the financial incentive
agreement, all eligible expenditures will qualify for credit. The tax
credits for the second year will be calculated by the amount of
qualified research expenditures incurred in the second year minus the
amount incurred in the first year. The tax credits for the third year
will be calculated by the amount of qualified research expenditures
incurred in the third year minus the amount incurred in the second
year. The tax credits for the fourth year will be calculated by the
amount of qualified research expenditures incurred in the fourth year
minus the amount incurred in the third year. The tax credits for the
fifth year will be calculated by the amount of qualified research
expenditures incurred in the fifth year minus the amount incurred in
the fourth year.



(ii) Any unused tax credits may be carried forward for a period up to
nine (9) years after the year in which the credit was first earned or until the tax credits
are exhausted, whichever occurs first.
(D)(i) To claim the credit earned through this incentive, the business sha
file with its return the Certificate of Tax Credit issued by the commission.
(ii) The commission will adhere to some of the federal guidelines for
qualifying research for federal tax credits as a guide in determining eligibility for this
state income tax credit.
(E) Qualified research expenditures include in-house expenses for taxable
wages paid and usual fringe benefits specific to research activities of employees of the
business or for wages and usual fringe benefits paid through contractual agreements,
approved in writing by the director, with a state college, an Arkansas state university,
other Arkansas-based research organization to perform research for a targeted
business.
(F) Qualified research must satisfy all of the following tests to qualify:
(i) The activity must be undertaken for the purpose of discovering
information that is technological in nature;
(ii) The application of technological information must be intended to
be useful in a new or improved business component; and
(iii) Substantially all of the activities related to the research effort
must constitute elements of a process of experimentation relating to a new or
improved:
(a) Function;
(b) Performance;
(c) Reliability; or
(d) Quality.
(G) The following activities are specifically excluded from the definition of
qualified research:
(i) Purchase of supplies;
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(iii) Purchase or rehabilitation of production machinery and
e quipment;
(iv) Construction or renovation of buildings;
(v) Any ordinary and necessary expenses of conducting business;
(vi) Any research conducted after the beginning of commercial
production;
(vii) Research adapting an existing product or process to a particular
customer's need;
(viii) Duplication of an existing product or process;
(ix) Surveys or studies;
(x) Research related to certain internal-use computer software;
(xi) Research in the:
(a) Social sciences;
(b) Arts; or
(c) Humanities; and
(xii)(a) Research conducted outside of Arkansas.
(b) However, the director may make an exception for research
and development activities occurring outside of Arkansas for an agreed upon transition
period if the following conditions exist:
(1) The business qualifies as a targeted business;
(2) The commission and the business have entered into a
targeted in-house research and development incentive agreement;
(3) The business is located in another state and has decided
to relocate its research and development activities to Arkansas within a specified
transition period, not to exceed eighteen (18) months; and
(4) The certificate of tax credit will not be issued to an out-
of state business relocating to Arkansas until the business:
(A) Has incorporated as a business in the State of
Arkansas;
(B) Has physically relocated to Arkansas; and

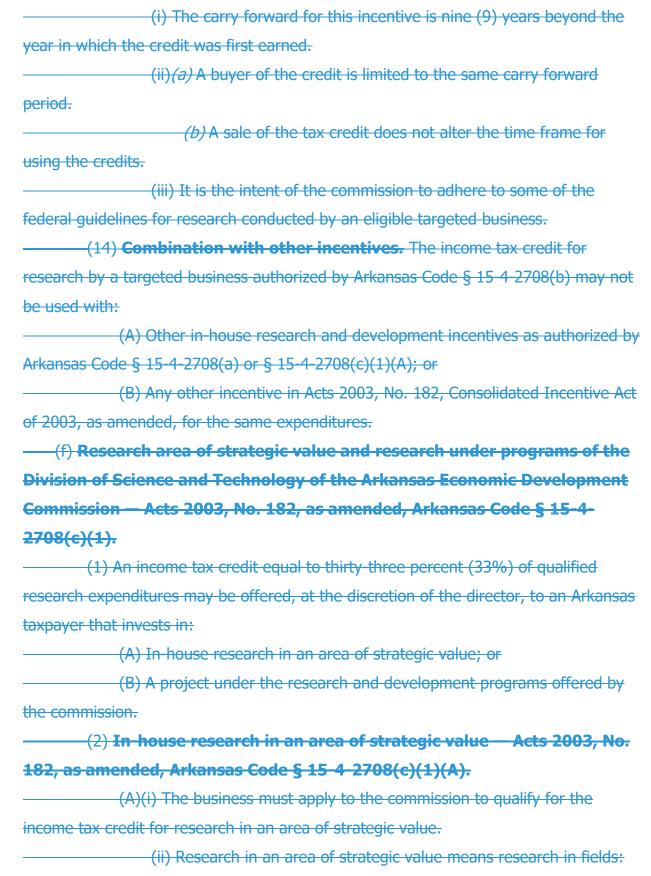


(2)(A) A targeted business may be approved for an income tax credit each
year equal to thirty-three percent (33%) of the qualified research and development
expenditures incurred each year for the first five (5) years of the financial incentive
agreement.
(B) This incentive is offered only at the discretion of the director.
(C) The application for this income tax credit shall include a project plan
that clearly identifies:
(i) The intent of the project;
(ii) The expenditures planned;
(iii) The start and end dates of the project; and
(iv) An estimate of total project costs.
(3) The commission will adhere to some of the federal guidelines for qualifying
research for federal tax credits as a guide in determining the eligibility for this state
income tax credit.
(4) Qualified research expenditures include in-house expenses for taxable
wages paid and usual fringe benefits specific to research activities of employees of the
business.
(5) Qualified research must satisfy all of the following tests to qualify:
(A) The activity must be undertaken for the purpose of discovering
information that is technological in nature;
(B) The application of technological information must be intended to be
useful in a new or improved business component; and
(C) Substantially all of the activities related to the research effort must
constitute elements of a process of experimentation relating to a new or improved:
(i) Function;
(ii) Performance;
(iii) Reliability; or
(iv) Quality.
(6)(A) The following activities are specifically excluded from the definition of
qualified research:

(i)	Purchase of supplies;
(ii) Purchase of land;
(ii	i) Purchase or rehabilitation of production machinery and
equipment;	
(iv	() Construction or renovation of buildings;
(V) Any ordinary and necessary expenses of conducting business;
(V	i) Any research conducted after the beginning of commercial
production;	
(V	ii) Research adapting an existing product or process to a particular
customer's need;	
(V	iii) Duplication of an existing product or process;
(i)	c) Surveys or studies;
(x) Research related to certain internal-use computer software;
(x	i) Research in the:
	(a) Social sciences;
	(b) Arts; or
	(c) Humanities; and
(x	ii)(a) Research conducted outside of Arkansas.
	(b) However, the director may make an exception for research
and development ac	tivities occurring outside of Arkansas for an agreed upon transition
period if the following	ng conditions exist:
	(1) The business qualifies as a targeted business;
	(2) The commission and the business have entered into a
targeted in-house re	esearch and development incentive agreement;
	(3) The business is located in another state and has decided
to relocate its resear	rch and development activities to Arkansas within a specified
transition period, no	t to exceed eighteen (18) months; and
	(4) The certificate of tax credit will not be issued to an out-
of-state business rel	ocating to Arkansas until the business:

(A) Has incorporated as a business in the State or
Arkansas;
(B) Has physically relocated to Arkansas; and
(C) Is conducting research in Arkansas.
(7)(A) Qualified wages are taxable wages paid to a full-time permanent
employee or "contractual employee", as defined in the Consolidated Incentive Act of
2003, Arkansas Code § 15-4-2701 et seq., for performing qualified services.
(B) Qualified services are services of employees who are:
(i) Engaging in qualified research, which means the actual conduct of
qualified research;
(ii) Engaging in the direct supervision of qualified research, which
means the immediate supervision (first-line management) of qualified research; and
(iii)(a) Engaging in the direct support of research activities that
constitute qualified research.
(b) Direct support of research activities does not include general
administrative services or other services only indirectly of benefit to the research
activity.
(8) As with the payroll income tax credits for targeted businesses, the income
tax credit for research and development earned by targeted businesses may be sold.
(9)(A) The income tax credits earned under this program may be sold upon
approval by the commission.
(B) Any sale of tax credits through this program must be fully documented
by the commission and that information will be transmitted to the Department of
Finance and Administration.
(10) The purchaser of the tax credits provided by this program shall:
(A) Obtain certification from the commission; and
(B) Attach the appropriate documentation provided by the commission to
the tax return on which the credit is first claimed.
(11)(A) The tax credit must be sold within one (1) year of its being issued by
the commission

(B) The original holder of tax credits under this section may sell its tax
credits only one (1) time, in whole or in part, the balance of which shall be used by the
holder within the time frame allowed.
(12) To claim a credit earned through this incentive, the business shall file with
its income tax return the Certificate of Tax Credit issued by the commission.
(13)(A) The buyer of the tax credit shall be subject to the same provisions for
carry forward of the tax credits as the business that originally earned the credits.
(B) A targeted business earning research and development tax credits is
prohibited from earning job creation tax credits, as authorized by Arkansas Code § 15-
4-2709, for the same expenditure.
Example: A new photonics business that has recently left the
Genesis Technology Business Incubator and has applied for and been
approved for in-house research income tax credits as a targeted
business is in need of further research to refine a process for using
lasers in space applications. It plans to spend two hundred thousand
dollars (\$200,000) on qualified expenditures for an in-house research
and development project that has been approved by the commission
as a qualified research program. The two hundred thousand dollar
(\$200,000) expenditure would be eligible for a thirty-three percent
(33%) tax credit, entitling the photonics business to earn sixty-six
thousand dollars (\$66,000) in income tax credits in the year of the
expenditure. The credits may be carried forward up to nine (9) years.
At the discretion of the photonics business and with the approval of
the commission, the credits may be sold within one (1) year of
issuance by the commission to allow the photonics business to realize
the benefit of the credit. The purchaser of the credits would be able
to carry the credit forward for nine (9) years.

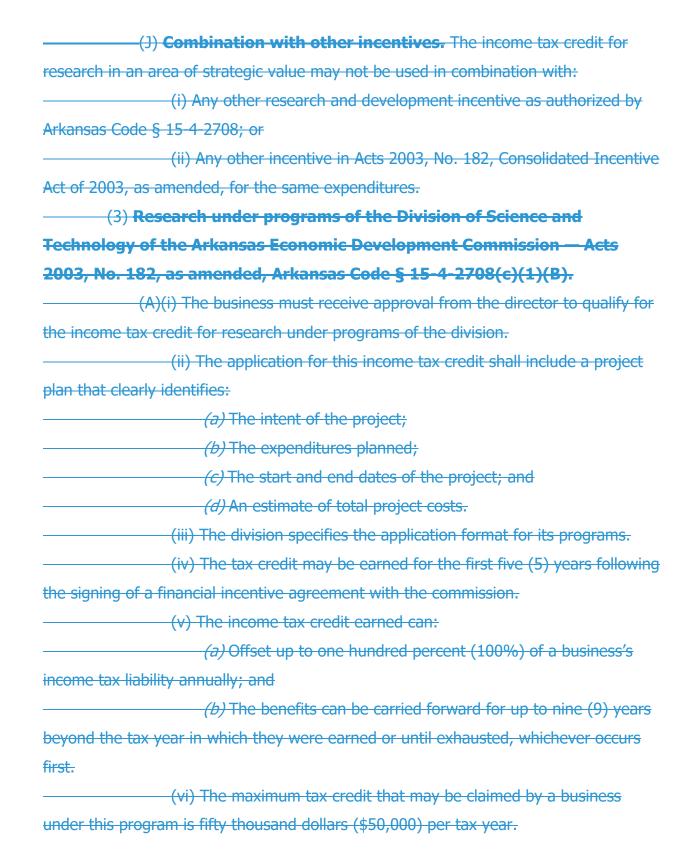


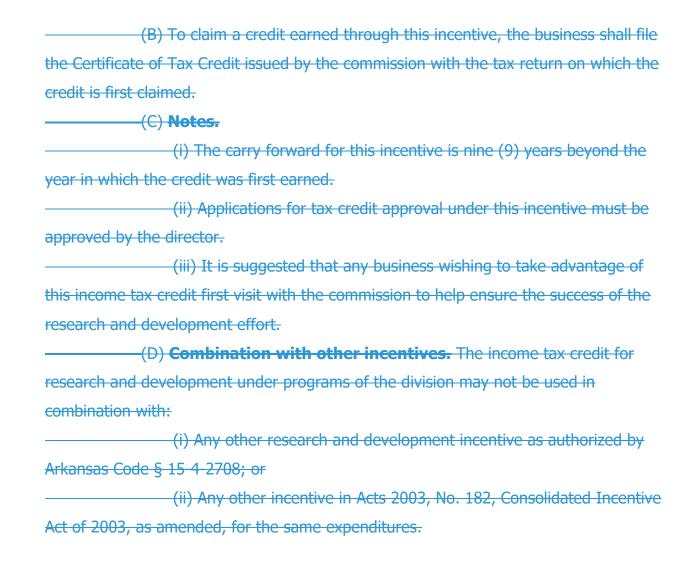
(a) Having long-term economic or commercial value to the state;
and
(b) That have been identified in the research and development
plan approved from time to time by the director with the advice of the Board of
Directors of the Division of Science and Technology of the Arkansas Economic
Development Commission.
(iii) The tax credit for research in an area of strategic value may be
earned for the first five (5) years following the signing of a financial incentive
agreement with the commission.
(iv) The income tax credit earned can:
(a) Offset up to one hundred percent (100%) of a business's
income tax liability annually; and
(b) Be carried forward for up to nine (9) years beyond the year
in which they were earned or until exhausted, whichever occurs first.
(B) The maximum tax credit that may be claimed by a business under this
program is fifty thousand dollars (\$50,000) per tax year.
(C) The application for this income tax credit shall include a project plan
that clearly identifies:
(i) The intent of the project;
(ii) The expenditures planned;
(iii) The start and end dates of the project; and
(iv) An estimate of total project costs.
(D) To claim a credit earned through this incentive, the business shall file
the Certificate of Tax Credit issued by the commission with the tax return on which the
credit is first claimed.
(E)(i) Qualified research expenditures for research in an area of strategic
value include:
(a) In-house expenses for taxable wages paid (wages subject to
withholding); and

	(b) Usual fringe benefits specific to research activities of
employees of t	he business.
	(ii) Qualified research must satisfy all of the following tests to qualify:
	(a) The activity must be undertaken for the purpose of
discovering info	ormation that is technological in nature;
	(b) The application of technological information must be intended
to be useful in	a new or improved business component; and
	(c) Substantially all of the activities related to the research effort
must constitute	e elements of a process of experimentation relating to a new or
improved:	
	(1) Function;
	(2) Performance;
	(3) Reliability; or
	(4) Quality.
	F) The following activities are specifically excluded from the definition of
qualified resea	rch:
	(i) Purchase of supplies;
	(ii) Purchase of land;
	(iii) Purchase or rehabilitation of production machinery and
equipment;	
	(iv) Construction or renovation of buildings;
	(v) Any ordinary and necessary expenses of conducting business;
	(vi) Any research conducted after the beginning of commercial
production;	
	(vii) Research adapting an existing product or process to a particular
customer's nec	e d;
	(viii) Duplication of an existing product or process;
	(ix) Surveys or studies;
	(x) Research related to certain internal-use computer software;
	(xi) Research in the social sciences, arts, or humanities; and

(XII)(a) Research conducted outside of Arkansas.
(b) However, the director may make an exception for research
and development activities occurring outside of Arkansas for an agreed upon transition
period if the following conditions exist:
(1) The business qualifies as a targeted business;
(2) The commission and the business have entered into a
targeted in-house research and development incentive agreement;
(3) The business is located in another state and has decided
to relocate its research and development activities to Arkansas within a specified
transition period, not to exceed eighteen (18) months; and
(4) The certificate of tax credit will not be issued to an out-
of-state business relocating to Arkansas until the business:
(A) Has incorporated as a business in the State of
Arkansas;
(B) Has physically relocated to Arkansas; and
(C) Is conducting research in Arkansas.
(G)(i) Qualified wages are taxable wages paid to a new full-time
permanent employee for performing qualified services.
(ii) Qualified services are services of employees who are:
(a) Engaging in qualified research, which means the actual
conduct of qualified research;
(b) Engaging in the direct supervision of qualified research,
which means the immediate supervision (first-line management) of qualified research;
and
(c)(1) Engaging in the direct support of research activities that
constitute qualified research.
(2) Direct support of research activities does not include
general administrative services or other services only indirectly of benefit to the
rosearch activity

(H) A business claiming a credit through this incentive shall be prohibited
from receiving the research tax credit authorized by Arkansas Code § 26-51-1102(b) for
the same expenditures.
Example: A defense contractor located in Arkansas has decided to
conduct research in the state to improve the function of
microelectronic components in advanced weapons systems. The
business has been approved for this research as being "research in a
area of strategic value". The defense contractor will spend one million
dollars (\$1,000,000) in qualified research expenditures in Arkansas in
conjunction with the approved program of in-house research.
Assuming the entire one million dollars (\$1,000,000) is expended on
qualified items over the five-year period at the rate of two hundred
thousand dollars (\$200,000) per year, the defense contractor would
generate a potential credit on the qualified annual expenditure of
(\$200,000 X 33% = \$66,000) and earn an actual income tax credit of
fifty thousand dollars (\$50,000) per tax year, due to the limit
established. The credits earned in each year may be carried forward
for nine (9) years beyond the tax year in which they were first
earned.
——————————————————————————————————————
(i) The carry forward for this incentive is nine (9) years beyond the
year in which the credit was first earned.
(ii) The director must approve any research for which a business is
seeking a credit under this incentive.
(iii) It is suggested that any business wishing to take advantage of
this income tax credit first visit with the commission to help ensure the success of the
research and development effort.









DATE: October 9, 2025

TO: All Interested Persons

FROM: Arkansas Economic Development Commission

SUBJECT: Proposed Repeal of the Consolidated Incentive Act Rules

NOTICE OF PUBLIC HEARING

Please find attached or available by electronic publication the Arkansas Economic Development Commission's (the "AEDC") proposed repeal of its Consolidated Incentive Act Rules.

Pursuant to the Arkansas Administrative Procedures Act, NOTICE is hereby given that a PUBLIC HEARING will be held on November 5th, 2025, at 10 a.m. in the Diamond Mine Room on the second floor of the offices of the Arkansas Department of Commerce, 1 Commerce Way, Little Rock, AR 72202.

The purpose of the Public Hearing will be to determine whether the AEDC should repeal the existing rules for incentives under Ark. Code Ann. § 15-4-2701, et seq. AEDC is proposing the repeal in order to eliminate unnecessary rules and provide space for more effective public guidance on its incentive programs.

All interested persons are encouraged to send their comments, statements, or opinions to the address below or to attend the Public Hearing and present, orally or in writing, statements, arguments, or opinions on the proposed repeal. The record will remain open for public comment until the close of the 30-day period outlined in the Arkansas Administrative Procedures Act; in this instance, November 11th, 2025.

Persons who wish to testify or make comments are requested to submit intended statements in writing in advance of the Public Hearing. Inquiries should be directed to: Brian Black, General Counsel – Arkansas Economic Development Commission, email: brian.black@arkansasedc.com. A copy of the proposed amendments may be obtained or viewed at https://www.arkansasedc.com/data-reports/rules.

Sincerely,

Jake G. Windley

Director of Legislative Affairs & Policies

Arkansas Department of Commerce





Executive Summary

The Arkansas Economic Development Commission (the "AEDC") is proposing to repeal its existing Consolidated Incentive Act Rules. AEDC maintains that the current rules are unnecessary, as they largely restate the statute and introduce potential ambiguities that could be better addressed through individualized incentive agreements and public guidance. Rule promulgation is not required under the Consolidated Incentive Act itself, and the repeal will also ensure that there is no disconnect between any changes to the statute and AEDC's administrative guidance moving forward.