

ARKANSAS REGISTER

Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

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For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Revenue Division

Department Department of Finance and Administration

Contact Mike Wehrle E-mail mike.wehrle@dfa.arkansas.gov Phone 501-682-7030

Statutory Authority for Promulgating Rules Act 1042 of 2017; Ark. Code Ann. 26-51-509(g)(1)

Rule Title: Apprenticeship Program Income Tax Credit under Act 1042 of 2017

Intended Effective Date
(Check One)

☐ Emergency (ACA 25-15-204)

☒ 10 Days After Filing (ACA 25-15-204)

☐ Other _____
(Must be more than 10 days after filing date.)

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Reviewed by Legislative Council 5/17/19

Adopted by State Agency 5/17/19

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Brandon Smith brandon.smith@dfa.arkansas.gov

5/15/2019

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Signature

501-682-7750

Phone Number

brandon.smith@dfa.arkansas.gov

E-mail Address

Public Information Specialist

Title

5/15/2019

Date

STATE OF ARKANSAS
SECRETARY OF STATE

2019 MAY 21 AM 9:15

AR REGISTER DIV.

FILED

ARKANSAS DEPARTMENT of FINANCE & ADMINISTRATION -- **RULE 2018-3**
APPRENTICESHIP PROGRAM INCOME TAX CREDIT under ACT 1042 of 2017

SECTION I - DEFINITIONS

- (1) "Department" means the Arkansas Department of Finance and Administration.
- (2) "Wages" are the gross taxable wages paid to an apprentice.
- (3) "Apprentice" means a worker who is at least sixteen (16) years of age and is employed (A) to learn an apprenticeable occupation under 29 CFR § 29.1 et seq. as it existed on January 1, 1995 or (B) in an apprenticeship or work-based learning program that meets (i) either the standards of program design for a nationally recognized curriculum or business, industry, or trade association standards and (ii) the criteria for vocationally approved youth apprentice or work-based learning programs.
- (4) "Apprenticeship or work-based learning program" includes non-registered apprenticeship, pre-apprenticeship, and youth apprenticeship programs.
 - a) "Non-registered apprenticeship" programs are not registered and are not approved by the U.S. Department of Labor and may include a variety of possible outcomes; academic and work-related competencies are integrated into the youth or adult program; and may or may not lead to a certification or credential.
 - b) "Pre-apprenticeship" programs are designed to prepare individuals to enter and succeed in registered apprenticeship programs. These programs are not registered but have a documented partnership with at least one registered apprenticeship program sponsor and are aligned with the registered apprenticeship programs, and together, they expand the participant's career pathway opportunities with industry-based training coupled with classroom instruction.
 - c) "Youth apprenticeship" programs consist of academic and technical classroom instruction combined with on-the-job learning experiences for individuals between the ages of sixteen (16) and twenty-one (21) years who are enrolled in a public or private secondary school.
- (5) "Taxpayer" means an employer who employs an apprentice and seeks to qualify for the state income tax credit authorized under this Act.
- (6) "Act" means Act 1042 of 2017 as enacted by the Arkansas General Assembly.

SECTION II - APPROVAL INTO PROGRAM

- a) A taxpayer seeking benefits under this Act must apply to the Department for approval into this program. Application must be made on forms prescribed and approved by the Department.
- b) The Arkansas Office of Apprenticeship of the United States Department of Labor shall determine if an employer's training program meets the qualifications pursuant to federal regulations governing labor standards for the registration of apprenticeable occupations under 29 CFR § 29.1 et seq. as it existed on January 1, 1995.

c) The Arkansas Apprenticeship Coordinating Committee and the Arkansas Department of Career Education shall determine if an employer's training program meets the qualifications as outlined above in Section I(3)(B) pursuant to an apprenticeship or work-based learning program.

d) When an apprenticeship agreement has been reached in which an employer is to employ one or more apprentices, the Arkansas Office of Apprenticeship of the United States Department of Labor shall forward to the Department copies of the apprenticeship agreement and other pertinent documentation regarding the qualification of the registered apprenticeship.

When an apprenticeship or work-based learning agreement has been reached in which an employer is to employ one or more apprentices, the Arkansas Department of Career Education shall forward to the Department copies of the apprenticeship agreement and other pertinent documentation regarding the qualification of an apprenticeship or work-based learning program.

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

SECTION III - INCOME TAX CREDITS

a) Certification.

To claim the credit authorized under this act, a taxpayer must certify to the Department that the taxpayer has satisfied all of the requirements for the credit. The certification shall be obtained from the Office of Apprenticeship of the United States Department of Labor if the apprentice is employed to learn an apprenticeable occupation under 29 CFR § 29.1 et seq. as it existed on January 1, 1995. The certification shall be obtained from the Arkansas Department of Career Education if the apprentice is employed in an apprenticeship or work-based learning program that meets (1) either the standards of program design for a nationally recognized curriculum or business, industry, or trade association standards and (2) the criteria for vocationally approved youth apprentice or work-based learning programs.

b) Amount of Credit.

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

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

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

c) Use of Credit.

(1) In order for the taxpayer to use the credit, the Income Tax Credit Memorandum must be attached to the income tax return in which the credit is first claimed. The amount of credit that may be used by a taxpayer for any tax year shall not exceed the amount of individual or corporation income tax otherwise due. Regardless of whether or not the credit is used for the tax year in which it was earned, any unused credit may be carried over only for a maximum of two (2) consecutive tax years.

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

(3) A partner's or member's distributive share of the credit shall be determined by the partnership or limited liability company agreement unless the agreement does not have substantial economic effect or does not provide for the allocation of credits. If the agreement does not have substantial economic effect or does not provide for the allocation of the credit, the credit shall be allocated according to the partner's or member's interest in the partnership, pursuant to federal Internal Revenue Code § 704(b), as in effect on January 1, 1995.

(4) The tax credit provided under this act shall apply to tax years beginning January 1, 2018 and all tax years thereafter.

SECTION IV

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



Larry W. Walther, Director
Arkansas Department of Finance & Administration

Date: November 6, 2018



Walter C. Anger, Deputy Director and Commissioner of Revenue
Arkansas Department of Finance & Administration

Date: November 6, 2018

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Finance and Administration

DIVISION Revenue Legal Counsel

PERSON COMPLETING THIS STATEMENT

Michael Wehrle - Revenue Legal Counsel

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To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE

Apprenticeship Program Income Tax Credit under Act 1042 of 2017

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 an agency is proposing a more costly rule, please state the following:

(a) How the additional benefits of the more costly rule justify its additional cost;
n/a

(b) The reason for adoption of the more costly rule;
n/a

(c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;
n/a

(d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.
n/a

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

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

Current Fiscal Year

General Revenue	<u>\$0</u>
Federal Funds	<u>\$0</u>
Cash Funds	<u>\$0</u>
Special	<u>\$0</u>

Next Fiscal Year

General Revenue	<u>\$0</u>
Federal Funds	<u>\$0</u>
Cash Funds	<u>\$0</u>
Special Revenue	<u>\$0</u>

Revenue _____
Other (Identify) \$0 _____

Other (Identify) _____
\$0 _____

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\$0

Total

\$0

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue	\$0
Federal Funds	\$0
Cash Funds	\$0
Special Revenue	\$0
Other (Identify)	\$0
Total	\$0

Next Fiscal Year

General Revenue	\$0
Federal Funds	\$0
Cash Funds	\$0
Special Revenue	\$0
Other (Identify)	\$0
Total	\$0

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

\$
0

n/a

Next Fiscal Year

\$ \$0

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$
\$

The cost of the apprenticeship income tax credit to the State of Arkansas is expected to be less than \$100,000 per fiscal year.

Next Fiscal Year

see note
\$ below

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.