

CONTACTS FOR QUALIFIED SMALL BUSINESS CAPITAL INVESTMENT TAX CREDIT PROGRAM

Arizona Commerce Authority (ACA)

•Application forms •Program guidelines

Website: www.azcommerce.com

Program Manager: (602) 845-1200

Arizona Department of Revenue

For information or help, call one of the numbers listed:

Phoenix (602) 255-3381

From area codes 520 and 928, toll-free (800) 352-4090

Tax forms, instructions, and other tax information

If you need tax forms, instructions, and other tax information, go to the department's website at www.azdor.gov.

Income Tax Procedures and Rulings

These instructions may refer to the department's income tax procedures and rulings for more information. To view or print these, go to our website select *Reports, Statistics and Legal Research* from the main menu, then click on *Legal Research* and select a *Document Type* and *Category* from the drop down menus.

Publications

To view or print the department's publications, go to our website select *Reports, Statistics and Legal Research* from the main menu then click on *Publications* in the left hand column.

General Instructions

NOTE:

Individual taxpayers that did not make the Small Business Income election, complete this credit form and Arizona Form 301, Nonrefundable Individual Tax Credits and Recapture. Include both completed forms with your Individual Income Tax Return, (Form 140, 140PY, 140NR, or 140X).

Individual taxpayers that made the Small Business Income election, complete this credit form and Arizona Form 301-SBI, Nonrefundable Individual Tax Credits and Recapture for Form 140-SBI, 140PY-SBI, 140NR-SBI and 140X-SBI. Include both completed forms with your SBI Tax Return (Form 140-SBI, 140PY-SBI, 140NR-SBI, or 140X-SBI).

Partnerships passing the credit through to its partners must also complete and include a separate Form 338-P for each partner receiving a pass-through credit.

S Corporations passing the credit through to its shareholders must also complete and include a separate Form 338-S for each shareholder receiving a pass-through credit.

For taxable years beginning from and after December 31, 2006 through December 31, 2034, Arizona law allows a credit for investments made in qualified small businesses. The amount of the credit is the amount determined and authorized by the Arizona Commerce Authority (ACA).

To claim this credit, you must include a copy of the ACA's *Authorization of Tax Credits* with your income tax return.

You must claim the credit on a timely filed return filed for the tax year in which the credit is available. A timely filed return is a return that you file by the return's original or extended due date. If you fail to timely file a return claiming the credit for a taxable year, the credit expires for that taxable year and there is no carryforward of the expired credit.

If the allowable tax credit is more than your tax liability or if you have no tax liability, you may carry the unused credit forward for up to the next three consecutive tax years.

NOTE: *The maximum amount of credit established for the current taxable year does not include any unused valid carryover amount(s) from prior taxable years. Because this is a nonrefundable tax credit, the total amount of available credit [current year plus any valid carryover amount(s)] that a taxpayer may use for the taxable year cannot be greater than the tax liability shown.*

This credit is available to individuals only. A corporation, including an S Corporation, may not claim this credit. However, an S Corporation may pass the credit through to its individual shareholders.

A partnership may pass the credit through to its individual partners. The total of the credits allowed all such owners may not exceed the amount that would have been allowed a sole owner.

The basis of any investment with respect to which you claim a credit must be reduced by the amount of the credit claimed with respect to the investment.

Qualified Small Business Capital Investment Program

The ACA administers the Qualified Small Business Capital Investment program. Tax credits are authorized on a first come, first served basis.

To seek a tax credit under this program, you must submit an application for an *Authorization of Tax Credits* to the ACA. To obtain an *Authorization of Tax Credits*, you must document that each investment and the small business meet the eligibility requirements. The ACA will issue an *Authorization of Tax Credits* after determining eligibility of the investor. For more information about this credit, visit the ACA's website at www.azcommerce.com.

Line-by-Line Instructions

Enter the names and taxpayer identification numbers (TIN) as shown on Arizona Forms 140, 140PY, 140NR, 140X, 120S or 165. Fiscal year basis taxpayers must indicate the period covered by the taxable year. Include the completed form with the tax return.

All returns, statements, and other documents filed with the Department of Revenue require a TIN. The TIN is either a correct Social Security Number (SSN) or an Internal

Revenue Service (IRS) individual taxpayer identification number (ITIN), or for a business, the employer identification number (EIN). Taxpayers who fail to include a TIN may be subject to a penalty. Be sure that all required identification numbers are written clearly. Missing, incorrect, or unclear identification numbers may cause delays in processing.

NOTE: Complete Parts 1 and 5, if you are claiming a new credit for the current tax year. If you are passing-through this credit, complete Parts 1 through 3, and Form 338-P or Form 338-S.

If you are **only** claiming a carryover amount available from a previous credit, complete Parts 4 and 5.

Part 1 - Current Year's Credit

Line 1

Enter the amount of credit shown for the taxable year on the ACA's *Authorization of Tax Credits*. On line 1, enter only the credit available for the current taxable year. You must include a copy of each ACA's *Authorization of Tax Credits* with Form 338 when you file.

Line 2

If you received a pass-through credit from a partnership, enter the amount from Form 338-P, Part 2, line 4. If you received more than one Form 338-P, add all amounts from Part 2, line 4 and enter the total.

Line 3

If you received a pass-through credit from an S Corporation, enter the amount from Form 338-S, Part 2, line 4. If you received more than one Form 338-S, add all amounts from Part 2, line 4 and enter the total.

Line 4

Add lines 1, 2, and 3. Enter the total.

Part 2 - Partnership: Individual Partner's Share of Credit

A partnership cannot claim this credit, but it may pass the credit through to its individual partners. A partnership passing the credit through to its individual partners must do the following:

- Complete Part 1, line 1 of Form 338.
- Complete a separate Form 338-P for each individual partner. Form 338-P is available on the department's website. Instructions for completing Form 338-P begin on page 4 of these instructions.

Each individual partner may claim only a *pro rata* share of the credit based on the partner's ownership interest in the partnership.

- The partnership must furnish each individual partner with a copy of the completed Form 338-P **and** a copy of the ACA's *Authorization of Tax Credits*.

Part 3 - S Corporation: Individual Shareholder's Share of Credit

An S Corporation cannot claim this credit, but it may pass the credit through to its individual shareholders. An S Corporation passing the credit through to its individual shareholders must do the following:

- Complete Part 1, line 1 of Form 338.
- Complete a separate Form 338-S for each individual shareholder. Form 338-S is available on the department's website. Instructions for completing Form 338-S begin on page 4 of these instructions.

Each individual shareholder may claim only a *pro rata* share of the credit based on the shareholder's ownership interest in the S Corporation.

The S Corporation must furnish each individual shareholder with a copy of the completed Form 338-P **and** a copy of the ACA's *Authorization of Tax Credits*.

Part 4 - Available Credit Carryover

Lines 5 through 8

Use Part 4 to figure your total available credit carryover from taxable years 2018 through 2020. Complete lines 5 through 8 if you claimed this credit on one of these returns and the credit was more than your tax liability.

- In column (b), enter the credit originally computed for the taxable year listed in column (a).
- In column (c), enter the amount of the credit from that taxable year which you have already used.
- In column (d), subtract the amount in column (c) from the amount in column (b) and enter the difference.
- Add the amounts on lines 5 through 7 in column (d).

Enter the total on line 8, column (d).

Part 5 - Total Available Credit

Line 9

Enter the amount from Part 1, line 4.

Individuals that did not make the Small Business Income election: Also enter this amount on Form 301, Part 1, line 17, column (a).

Individuals that made the Small Business Income election: Also enter this amount on Form 301-SBI, Part 1, line 13, column (a).

Line 10

Enter the amount from Part 4, line 8, column (d).

Individuals that did not make the Small Business Income election: Also enter this amount on Form 301, Part 1, line 17, column (b).

Individuals that made the Small Business Income election: Also enter this amount on Form 301-SBI, Part 1, line 13, column (b).

Line 11 - Total Available Credit

Add the amounts on line 9 and line 10. Enter the total.

Individuals that did not make the Small Business Income election: Also enter this amount on Form 301, Part 1, line 17, column (c).

Individuals that made the Small Business Income election: Also enter this amount on Form 301-SBI, Part 1, line 13, column (c).

Form 338-P, Credit for Investment in Qualified Small Business - Distribution to Partners

NOTE: Form 338-P is available on the department's website.

Instructions for Partnerships Passing the Credit to Individual Partners
Part 1 – Partnership and Partner Information
Line 1 (a) and (b) -

In the space provided, enter the name of the partnership and EIN.

Line 2 (a), (b) and (c) -

In the space provided, enter the partner's name, SSN or EIN, and ownership percentage.

Each individual partner is entitled to a *pro rata* share of the credit, based on its ownership percentage.

Part 2 - Distribution of Credit
Line 3 -

Enter the partnership's current year's credit from Form 338, Part 1, line 4.

Line 4 -

Multiply line 3 by the partner's ownership percentage on line 2c and enter the result.

Instructions for Individual Partners Receiving Form 338-P

- Enter the amount from Form 338-P, line 4, on *your own* Form 338, in Part 1, on line 2.

If you are claiming a pass-through credit from more than one partnership, add all amounts from Forms 338-P, line 4, and enter the total on Form 338, in Part 1, on line 2.

- If the partner is another partnership, it must complete a separate Form 338-P for each individual partner identifying the partner's *pro rata* share of the pass-through credit amount and qualifying wage expense.
- If the partner is an S Corporation, it must also complete a separate Form 338-S for each individual shareholder identifying the shareholder's *pro rata* share of credit amount and qualifying wage expense.

Form 338-S, Credit for Investment in Qualified Small Business - Distribution to Shareholders

NOTE: Form 338-S is available on the department's website.

Instructions for S Corporations Passing the Credit to Individual Shareholders
Part 1 – S Corporation and Shareholder Information
Line 1 (a) and (b) -

In the space provided, enter the name of the S Corporation and EIN.

Line 2 (a), (b) and (c) -

In the space provided, enter the shareholder's name and SSN, and ownership percentage.

Each individual shareholder is entitled to a *pro rata* share of the credit, based on its ownership percentage.

Part 2 - Distribution of Credit
Line 3 -

Enter the S Corporation's current year's credit from Form 338, Part 1, line 4.

Line 4 -

Multiply line 3 by the shareholder's ownership percentage on line 2c and enter the result.

Instructions for Individual Shareholders Receiving Form 338-S

- Enter the amount from Form 338-S, line 4, on *your own* Form 338, in Part 1, on line 3.

If you are claiming a pass-through credit from more than one S Corporation, add all amounts from Forms 338-S, line 4, and enter the total on Form 338, in Part 1, on line 3.

NOTE: If you file your income tax return on a calendar year basis (January 1, 2021 – December 31, 2021) but the partnership or S Corporation passing the credit files its return on a fiscal year basis, claim the pass-through credit on your income tax return for the year in which the partnership or S Corporation's fiscal year ends. For example, if the entity's tax year ends in February 2022, claim this credit on your 2022 tax return.