

# Enterprise Zone Income Tax Credit Guide



**COLORADO**  
Department of Revenue  
Taxation Division



Enterprise zones are economically depressed areas designated by the Colorado Economic Development Commission based upon unemployment rate, population growth rate, and/or per capita income. Enterprise zones may include both urban and rural areas. There are 16 designated enterprise zones in Colorado. Maps and additional information about designated enterprises zones can be found online at [choosecolorado.com/doing-business/incentives-financing/ez/](http://choosecolorado.com/doing-business/incentives-financing/ez/).

Colorado has established many tax incentives for private enterprises to start new businesses and to expand existing businesses in enterprise zones. These incentives come primarily in the form of credits that can be applied toward a taxpayer’s Colorado income tax liability. These credits are generally based upon investments made or employees hired by the taxpayer in an enterprise zone.

This publication is designed to provide taxpayers with general information about Colorado income tax credits for business activity and investments in enterprise zones. Nothing in this publication modifies or is intended to modify the requirements of Colorado’s statutes and regulations. Taxpayers are encouraged to consult their tax advisors for guidance regarding specific situations. Additionally, taxpayers can request a General Information Letter (GIL) or Private Letter Ruling (PLR) from the Department on issues related to enterprise zone income tax credits.

In addition to the income tax credits discussed in this guide, state law authorizes sales and use tax exemptions for machinery and machine tools used solely and exclusively in enterprise zones. See *FYI Sales 10: Machinery and Machine Tools Used in Manufacturing* for information regarding the sales and use tax exemptions.

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Taxpayers must satisfy certain certification and filing requirements to claim enterprise zone credits. The certification requirements described below apply to all enterprise zone credits except the contribution credit, which has its own certification requirements described in *Part 2* of this publication. The mandatory electronic filing requirements described in this *Part 1* apply to all enterprise zone credits, including contribution credits.

## Certification requirements

Before a taxpayer engages in any activity for which the taxpayer intends to claim any enterprise zone credit, other than the contribution credit, the taxpayer must apply for pre-certification from the enterprise zone administrator. As part of the application, the taxpayer must identify their business location within the enterprise zone and attest that:

- the taxpayer is aware of enterprise zone credits; and
- enterprise zone credits are a contributing factor to the start-up, expansion, or relocation of the taxpayer's business in the enterprise zone.

Furthermore, the taxpayer must acknowledge in the application that the pre-certification applies only to activities that commence after the date that pre-certification is issued by the enterprise zone administrator and before the end of the taxpayer's current income tax year.

The pre-certification applies only with respect to activities undertaken by the taxpayer at the business location reflected in the pre-certification.

Before filing an income tax return claiming any credit covered by pre-certification, the taxpayer must obtain final certification from the enterprise zone administrator.

Applications for pre-certification and final certification are made through the website for the Office of Economic Development and International Trade (OEDIT) at [choosecolorado.com/doing-business/incentives-financing/ez/](https://choosecolorado.com/doing-business/incentives-financing/ez/). OEDIT provides information to the Department of Revenue confirming that taxpayers have complied with pre-certification and certification requirements.

The pre-certification and final certification issued by the enterprise zone administrator affirm only that the taxpayer's business address is within the boundaries of the enterprise zone and, in the case of the vacant building rehabilitation credit, that the expenditures are of a qualified nature. They do not establish the taxpayer's eligibility for the credit or the amount of the credit claimed. Any enterprise zone credit a taxpayer claims is subject to examination, audit, and adjustment by the Department of Revenue.

## Claiming credits

Taxpayers must file a Colorado income tax return and Enterprise Zone Credit and Carryforward Schedule (DR 1366 to claim any enterprise zone income tax credits allowed for to the taxpayer for the tax year. Credits must be claimed on the return filed for the tax year in which the taxpayer earned the credit, even if the taxpayer has no tax liability for that year to offset with the credit(s). Enterprise zone credits claimed, but not applied to offset tax in the year claimed can generally be carried forward to the following tax year. Credits cannot be carried forward and applied toward tax in subsequent tax years unless the taxpayer filed a return and DR 1366 to properly claim the credit for the tax year in which it was earned.



## Mandatory electronic filing

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Any taxpayer who claims one or more enterprise zone credits must file their Colorado income tax return electronically, unless filing electronically would cause undue hardship for the taxpayer. A taxpayer may claim enterprise zone credits on a paper return only if the taxpayer cannot file electronically because the taxpayer does not have:

- access to a computer,
- sufficient internet access,
- sufficient internet capability, or
- sufficient computer knowledge.

Any taxpayer who claims one or more enterprise zone credits must also include with their return a completed *Enterprise Zone Credit and Carryforward Schedule* (DR 1366). Additionally, S corporations, partnerships, and other entities treated as partnerships for tax purposes are required to file with their returns a completed *Pass-Through Entity Enterprise Zone Credit Distribution Report* (DR 0078A).

## Additional resources

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The following is a list of statutes, regulations, forms, and guidance pertaining to pre-certification, certification, and filing requirements for enterprise zone credits. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Individuals and businesses with specific questions should consult their tax advisors.

### Statutes and regulations

- § 39-30-103, C.R.S. Zones established - review - termination - repeal.
- § 39-30-110, C.R.S. Electronic submissions.
- § 39-30-111, C.R.S. Department of revenue - enterprise zone data - electronic filing - submission of carryforward schedule.
- § 39-30-112, C.R.S. Data provided to department of revenue.

### Forms and guidance

- [Colorado.gov/Tax](https://colorado.gov/Tax)
- Enterprise Zone Credit and Carryforward Schedule (DR 1366)
- Pass-Through Entity Enterprise Zone Credit Distribution Report (DR 0078A)
- [choosecolorado.com/doing-business/incentives-financing/ez/](https://choosecolorado.com/doing-business/incentives-financing/ez/)

Taxpayers may claim a credit for contributions they make during the tax year for the purpose of implementing the economic development plan for the enterprise zone. The credit is generally equal to 25% of the qualifying contribution, but is subject to multiple limitations. This *Part 2* includes information about qualifications, calculations, and limitations applicable to the contribution credit.

## Qualifying contributions

Credits are allowed only for qualifying contributions made to an enterprise zone administrator or directly to a program, project, or organization certified by an enterprise zone administrator. The Office of Economic Development and International Trade (OEDIT) provides information regarding project certification and a list of certified projects online at [choosecolorado.com/doing-business/incentives-financing/ez/](https://choosecolorado.com/doing-business/incentives-financing/ez/).

A qualifying contribution is a monetary or in-kind contribution, subject to approval by the enterprise zone administrator and the Economic Development Commission, that the taxpayer makes during the tax year for the purpose of implementing the economic development plan for the enterprise zone. The enterprise zone administrator has the authority to determine whether a particular monetary or in-kind contribution is appropriate and necessary for the purpose of implementing the economic development plan. A taxpayer must obtain a Certification of Qualified Enterprise Zone Contribution from the enterprise zone administrator in order to claim the credit.

The amount of the credit is determined, in part, based upon whether the contribution is a monetary contribution or an in-kind contribution.

## Monetary contributions

A monetary contribution is any contribution of U.S. currency in any form, including cash and payments made by check, electronic funds transfer (EFT), debit card, or credit card. A qualified charitable distribution made from an individual retirement account (IRA) to a certified enterprise zone program, project, or organization is considered a monetary contribution. See IRS Publication 590-B for additional information regarding qualified charitable distributions.

## In-kind contributions

In-kind contributions include all contributions that are not monetary contributions, subject to approval by the enterprise zone administrator and the Economic Development Commission. Contributions of property, services, stocks, bonds, and other intangible property may all be in-kind contributions. In general, credits for contributions of property are based on the fair market value of the property on the date of the contribution, determined in a manner consistent with IRS guidance. See IRS Publication 561 for additional information.

## Non-qualifying contributions

Taxpayers may not claim a credit for any contributions made to a donor-advised fund, as defined in section 4966(d)(2)(A) of the Internal Revenue Code.

Additionally, the credit is not allowed for any contributions that directly benefit the contributor or that are not directly related to job creation, job preservation, or another purpose expressly authorized by law.

Taxpayers cannot claim both an enterprise zone contribution credit and a child care contribution credit for the same contribution.



## Credit calculations and limitations

In general, the allowable credit is equal to 25% of the qualifying contribution(s) made during the tax year. However, multiple limitations apply in determining the allowable credit a taxpayer may claim. First, the total credit allowed to a taxpayer for any tax year may not exceed \$100,000. Additionally, the amount of credit a taxpayer can claim for in-kind contributions may also be limited. *Worksheet 2-1* details the calculation of the credit, including these limitations. The amount calculated on line 9 of *Worksheet 2-1* is allowable credit.

### Worksheet 2-1. Credit Calculation

1. Monetary contributions . . . . .	1. _____
2. In-kind contributions . . . . .	2. _____
3. Add lines 1 and 2 . . . . .	3. _____
4. Enter the smaller of \$100,000 and 25% of line 3 . . . . .	4. _____
5. Multiply line 4 by 50% . . . . .	5. _____
6. Enter the smaller of line 5 and 25% of line 2 . . . . .	6. _____
7. Line 4 minus line 6 . . . . .	7. _____
8. Enter the smaller of line 7 and 25% of line 1 . . . . .	8. _____
9. Enter the total of lines 6 and 8 . . . . .	9. _____

The credit calculation only includes qualifying contributions made during the tax year. The time at which a contribution is considered to be made is generally determined in a manner consistent with IRS guidance. See the section titled “When to Deduct” in IRS Publication 526 for additional information.

### Example 2-1. Monetary contributions

During the tax year, the taxpayer makes a monetary contribution of \$8,000. The allowable credit is \$2,000, as illustrated below.

1. Monetary contributions . . . . .	1. <u>\$ 8,000</u>
2. In-kind contributions . . . . .	2. <u>\$ 0</u>
3. Add lines 1 and 2 . . . . .	3. <u>\$ 8,000</u>
4. Enter the smaller of \$100,000 and 25% of line 3 . . . . .	4. <u>\$ 2,000</u>
5. Multiply line 4 by 50% . . . . .	5. <u>\$ 1,000</u>
6. Enter the smaller of line 5 and 25% of line 2 . . . . .	6. <u>\$ 0</u>
7. Line 4 minus line 6 . . . . .	7. <u>\$ 2,000</u>
8. Enter the smaller of line 7 and 25% of line 1 . . . . .	8. <u>\$ 2,000</u>
9. Enter the total of lines 6 and 8 . . . . .	9. <u>\$ 2,000</u>

### Example 2-2. In-kind contributions

During the tax year, the taxpayer makes an in-kind contribution of \$8,000. The allowable credit is \$1,000, as illustrated below.

1. Monetary contributions . . . . .	1. <u>\$ 0</u>
2. In-kind contributions . . . . .	2. <u>\$ 8,000</u>
3. Add lines 1 and 2 . . . . .	3. <u>\$ 8,000</u>
4. Enter the smaller of \$100,000 and 25% of line 3 . . . . .	4. <u>\$ 2,000</u>
5. Multiply line 4 by 50% . . . . .	5. <u>\$ 1,000</u>
6. Enter the smaller of line 5 and 25% of line 2 . . . . .	6. <u>\$ 1,000</u>
7. Line 4 minus line 6 . . . . .	7. <u>\$ 1,000</u>
8. Enter the smaller of line 7 and 25% of line 1 . . . . .	8. <u>\$ 0</u>
9. Enter the total of lines 6 and 8 . . . . .	9. <u>\$ 1,000</u>



## Part 2: Contribution Credit

### Example 2-3. Mixed contributions

During the tax year, the taxpayer makes monetary and in-kind contributions of \$4,000 each. The allowable credit is \$2,000, as illustrated below.

1. Monetary contributions . . . . .	1. <u>\$ 4,000</u>
2. In-kind contributions . . . . .	2. <u>\$ 4,000</u>
3. Add lines 1 and 2 . . . . .	3. <u>\$ 8,000</u>
4. Enter the smaller of \$100,000 and 25% of line 3 . . . . .	4. <u>\$ 2,000</u>
5. Multiply line 4 by 50% . . . . .	5. <u>\$ 1,000</u>
6. Enter the smaller of line 5 and 25% of line 2 . . . . .	6. <u>\$ 1,000</u>
7. Line 4 minus line 6 . . . . .	7. <u>\$ 1,000</u>
8. Enter the smaller of line 7 and 25% of line 1 . . . . .	8. <u>\$ 1,000</u>
9. Enter the total of lines 6 and 8 . . . . .	9. <u>\$ 2,000</u>

### Example 2-4. Mixed contributions

During the tax year, the taxpayer makes monetary and in-kind contributions of \$1,000 and \$7,000, respectively. The allowable credit is \$1,250.

1. Monetary contributions . . . . .	1. <u>\$ 1,000</u>
2. In-kind contributions . . . . .	2. <u>\$ 7,000</u>
3. Add lines 1 and 2 . . . . .	3. <u>\$ 8,000</u>
4. Enter the smaller of \$100,000 and 25% of line 3 . . . . .	4. <u>\$ 2,000</u>
5. Multiply line 4 by 50% . . . . .	5. <u>\$ 1,000</u>
6. Enter the smaller of line 5 and 25% of line 2 . . . . .	6. <u>\$ 1,000</u>
7. Line 4 minus line 6 . . . . .	7. <u>\$ 1,000</u>
8. Enter the smaller of line 7 and 25% of line 1 . . . . .	8. <u>\$ 250</u>
9. Enter the total of lines 6 and 8 . . . . .	9. <u>\$ 1,250</u>

## Credit carryforward

The credit a taxpayer can use for any tax year is limited to the taxpayer’s net tax liability. If the allowable credit exceeds the taxpayer’s net tax liability, the taxpayer can carry forward the excess credit for application toward the tax due for subsequent tax years. Credits may be carried forward up to five tax years. Any credit that has not been used within the carryforward period expires and is no longer available to the taxpayer.

## Effect of credit on federal tax

Certain contributions may qualify for both the enterprise zone contribution credit and the federal charitable contribution deduction. However, federal regulation limits the federal deduction allowed for contributions that result in state income tax credits. See 26 CFR § 1.170A-1(h)(3) for additional information.

## Additional resources

The following is a list of statutes, regulations, forms, and guidance pertaining to the enterprise zone contribution credit. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Individuals and businesses with specific questions should consult their tax advisors.

### Statutes and regulations

- § 39-30-103.5, C.R.S. Credit against tax - contributions to enterprise zone administrators.
- Reg. 39-30-103.5. Credit for Enterprise Zone Contributions.

### Forms and guidance

- [Colorado.gov/Tax](https://colorado.gov/Tax)
- [choosecolorado.com/doing-business/incentives-financing/ez/enterprise-zone-contribution-projects/](https://choosecolorado.com/doing-business/incentives-financing/ez/enterprise-zone-contribution-projects/)

The enterprise zone investment tax credit is allowed for 3% of the taxpayer's qualified investment made during the tax year in qualified property used solely and exclusively in an enterprise zone for at least one year. This *Part 3* includes information about qualifications, calculations, and limitations applicable to the investment tax credit.

### *I.R.C. References in This Part 3*

*The enterprise zone investment tax credit is based upon provisions of the Internal Revenue Code ("I.R.C.") as it existed immediately prior to the enactment of the federal Revenue Reconciliation Act of 1990. All references in this Part 3 to sections of the I.R.C. are to those sections as they existed immediately prior to the enactment of the federal Revenue Reconciliation Act of 1990.*

## Qualified property

Qualified property is property defined as "section 38 property" in section 48 of the I.R.C. Section 38 property generally includes tangible personal property that is depreciable under section 168 of the I.R.C. Section 168 prescribes the method of depreciation for property either used in a trade or business or otherwise held for the production of income. Property that is neither used in a trade or business nor held for the production of income is not qualified property and does not qualify for the enterprise zone investment tax credit. Additionally, any property the taxpayer elects to expense pursuant to section 179 of the I.R.C. is not qualified property and does not qualify for the credit.

Several other types of property may also qualify as section 38 property if they are (1) depreciable under I.R.C. section 168 (without regard to useful life) or (2) otherwise eligible for depreciation (or amortization in lieu of depreciation) and have a useful life of 3 years or more. See I.R.C. section 48 and the associated federal regulations for information regarding specific rules for the following types of property:

- air conditioning and heating units;
- tangible property used as an integral part of manufacturing or extraction;
- tangible property used as an integral part of furnishing transportation, communications, electrical energy, gas, water, or sewage disposal services;
- tangible property that constitutes a research facility or bulk storage facility;
- elevators and escalators;
- single purpose agricultural or horticultural structures;
- qualified rehabilitation expenditures;
- qualified timber property;
- a storage facility used in connection with distribution of petroleum products;
- property used in lodging;
- livestock;
- boilers fueled by oil or gas;
- movie and television films;
- energy property; and
- sound recordings.

## Qualified investment

The allowable credit is an amount equal to 3% of the taxpayer's qualified investment during the tax year in qualified property that is used solely and exclusively in an enterprise zone for at least one year. The qualified investment is a percentage of the basis or cost of qualified property placed into service by the taxpayer during the tax year. The applicable percentage may be based on various factors, including the type of property, the useful life of the property, whether the property is new or used when the taxpayer acquires it, and whether section 168 of the I.R.C. applies to the property. Section 168 of the I.R.C. provides generally for the accelerated cost recovery system for depreciable business assets.

The applicable percentage for property to which I.R.C. section 168 applies is:

- 60% for property classified as 3-year property in I.R.C. section 168(e); and
- 100% for property classified as anything other than 3-year property in I.R.C. section 168(e).

See I.R.C. section 46(c)(2) for the applicable percentage for section 38 property to which I.R.C. section 168 does not apply.

## When property is placed in service

For the purpose of determining a taxpayer's qualified investment, qualified property is placed in service in the earlier of the following tax years:

- the tax year in which, under the taxpayer's depreciation practice, the period for depreciation with respect to such property begins; or
- the tax year in which the property is placed in a condition or state of readiness and availability for a specifically assigned function.

See 26 CFR § 1.46-3(d) for additional rules in determining the tax year during which qualified property is placed in service.

## Special rules

Special rules apply to various types of property and investments. The following sections provide information about special rules for:

- used property;
- property ultimately used solely and exclusively in an enterprise zone for less than one year;
- heavy trucks, tractors, and semitrailers;
- leased property;
- renewable energy investments; and
- relocations of business operations.

## Used property

In the case of used property, the qualified investment that may be considered in the calculation of the credit is limited to \$150,000.

## One-year requirement

The credit is allowed only for qualified property that is used solely and exclusively within an enterprise zone for at least one year after the property is placed in service. However, a taxpayer may file a tax return claiming the credit before the full year has elapsed. For example, if a taxpayer places qualified property in service in November of 2018, the taxpayer can file a 2018 income tax return claiming the credit in April 2019, before the full one-year period has elapsed.

If a taxpayer claims a credit for qualified property that is not ultimately used solely and exclusively in an enterprise zone, the taxpayer must file an amended return to withdraw the credit claim for such property. For example, if a taxpayer places qualified property in service in November of 2018 and files a 2018 income tax return claiming the credit in April 2019, but uses the property outside of the enterprise zone in June 2019, the taxpayer must file an amended 2018 return to withdraw the claim for credit.

## Heavy trucks, tractors, and semitrailers

Special rules apply to heavy trucks, tractors, and semitrailers that:

- have a gross vehicle weight rating (GVWR) of 54,000 pounds or greater;
- are model year 2010 or newer;
- are designated as Class A personal property for vehicle registration purposes;
- are licensed and registered in Colorado; and
- are predominantly housed and based at the taxpayer's business trucking facility within an enterprise zone for the 12-month period following purchaser.

Heavy trucks, tractors, and semitrailers and any parts associated therewith are deemed to satisfy the one-year requirement described above.

Credits allowed for heavy trucks, tractors, and semitrailers that meet all of the preceding criteria are equal to 1.5%, rather than 3%, of the qualifying investment and subject to approval and certification by the Economic Development Commission.

For additional information regarding heavy trucks, tractors, and semitrailers, please visit [choosecolorado.com/doing-business/incentives-financing/ez/](https://choosecolorado.com/doing-business/incentives-financing/ez/).

## Leased property

Under certain conditions, the lessor of qualified property can elect to treat the lessee as having acquired the property for the purpose of the credit. See I.R.C. section 48(d) and 26 CFR § 1.48-4 for additional information regarding leased property.

## Renewable energy investments

In general, the credit can be used only to offset tax and cannot be used to claim a refund. However, any taxpayer who is allowed a credit for a new renewable energy investment may elect to receive a refund for a portion of the allowable credit. A new renewable energy investment is a qualified investment for a project that generates electricity from eligible energy resources. Eligible energy resources generally include solar, wind, geothermal, biomass, hydroelectricity, and recycled energy. Fossil fuels, nuclear fuels, and their derivatives are not eligible energy resources. See section 40-2-124(1)(a), C.R.S., for a complete definition of eligible energy resources.

A taxpayer who makes an election to receive a refund for a new renewable energy investment is allowed a refund for 80% of the credit. By making the election, the taxpayer agrees to forgo the remaining 20% of the credit. The taxpayer may make the election no later than the due date, including extensions, for the filing the tax return for the tax year during which the renewable energy investment was placed into service.

If the refund the taxpayer elects to receive is greater than \$750,000, the taxpayer will receive a refund of \$750,000 for the tax year the election is made and a refund of \$750,000 for each subsequent tax year until the full amount of the allowable refunded has been refunded to the taxpayer. A taxpayer may make the election to receive a refund with respect to multiple renewable energy investments, but in no event may the taxpayer receive for any tax year refund totaling more than \$750,000 for renewable energy investments.

See [choosecolorado.com/doing-business/incentives-financing/ez/](https://choosecolorado.com/doing-business/incentives-financing/ez/) for information about investments that qualify as renewable energy investments.



### Relocations of business operations

In general, the credit is not allowed for any investment resulting from the relocation of a business operation from within the state to an enterprise zone, regardless of whether the original location of the operation was within an enterprise zone. However, a credit may be claimed for the taxpayer’s qualifying investment in qualifying property to the extent that the relocation meets the criteria for an expansion pursuant to section 39-30-105(7)(c)(II) and (7)(c)(III), C.R.S., as it existed prior to repeal. See *Appendix A* for additional information.

### Limits on use of the credit

Multiple limitations restrict the amount of credit a taxpayer can use for a given tax year. If the credit allowed to the taxpayer exceeds these limits, the taxpayer can generally carry forward the excess credit for application toward the tax due for subsequent tax years. The amount of credit a taxpayer can use in a given tax year is the lesser of:

- the taxpayer’s net tax liability;
- the sum of \$5,000 plus 50% of the taxpayer’s tax net liability in excess of \$5,000; or
- \$750,000.

The \$750,000 limit applies to any credit applied toward tax, any refund the taxpayer receives for a renewable energy investment (discussed on the preceding page), and to the combined total of credit applied and refund claimed by the taxpayer for the tax year. If a taxpayer claims a \$750,000 refund for a renewable energy investment, the taxpayer cannot apply any credit toward tax for the same tax year. The \$750,000 limit does not apply to any credit the taxpayer has carried forward from a tax year prior to 2014.

The limits on credit use apply to the investment tax credit and the job training investment tax credit discussed in *Part 5*. The combined amount of investment tax credit and job training investment tax credit a taxpayer applies to offset tax for a given tax year cannot exceed the limits on credit use.

See sections 39-30-104(2)(a) and (b) and 39-22-507.5(3), C.R.S., for limits applicable to tax years commencing prior to January 1, 2014.

### Credit carryforwards

If the credit a taxpayer may use is limited as described above, the taxpayer can generally carry forward the excess credit to the next tax year. The number of years a taxpayer can carry forward excess credits beyond the tax year in which the investment was made depends on the tax year for which the credit was initially allowed. The credit carryforward periods reflected in *Table 3-1* do not apply to renewable energy investments for which the taxpayer has elected to receive a refund.

**Table 3-1. Credit Carryforward Periods**

<i>Tax Years</i>	2013 and prior	2014 through 2018	2018 and later
<i>Credit carryforward period</i>	12 years	14 years	14 years
<i>Carryforward period for renewable energy investments</i>	20 years	22 years	14 years

Any credit that has not been used within the carryforward period expires and is no longer available to the taxpayer.

## Additional resources

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The following is a list of statutes, regulations, forms, and guidance pertaining to the enterprise zone investment tax credit. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Individuals and businesses with specific questions should consult their tax advisors.

### State statutes and regulations

- § 39-30-104, C.R.S. Credit against tax - investment in certain property - definitions.
- Reg. 39-30-104. Enterprise zone investment tax credit.

### Federal law

The federal laws listed here are those laws as they existed immediately prior to the enactment of the federal Revenue Reconciliation Act of 1990.

- I.R.C. § 38. General business credit.
- I.R.C. § 46. Amount of credit.
- I.R.C. § 47. Certain dispositions...of section 38 property.
- I.R.C. § 48. Definitions; special rules.
- I.R.C. § 167. Depreciation.
- I.R.C. § 168. Accelerated cost recovery system.

Any federal regulations promulgated under these sections may also be relevant to the enterprise zone contribution credit.

### Forms and guidance

- [Colorado.gov/Tax](https://colorado.gov/Tax)
- [choosecolorado.com/doing-business/incentives-financing/ez/](https://choosecolorado.com/doing-business/incentives-financing/ez/)
- [choosecolorado.com/doing-business/incentives-financing/ez/renewable-energy-equipment/](https://choosecolorado.com/doing-business/incentives-financing/ez/renewable-energy-equipment/)

A taxpayer who operates a business facility in an enterprise zone is allowed a credit for the net increase during the tax year in employees working at the facility. The taxpayer may claim additional employee credits if certain qualifying criteria are met. This *Part 4* includes information about qualifying criteria for business facilities and business facility employees, as well as for the calculation of the credit.

## Business facilities

Enterprise zone business facility employee credits are allowed only to taxpayers who operate a business facility in an enterprise zone. The business facility must meet certain criteria, is subject to certain rules in the event the facility is leased, and must be used by the taxpayer in a revenue-producing enterprise.

The taxpayer's business facility must be a factory, mill, plant, refinery, warehouse, feedlot, or any other building or complex of buildings within which individuals are customarily employed or that are customarily used to house machinery, equipment, or other property. Temporary structures and mobile units do not qualify as business facilities, except to the extent that they are associated with permanent structures that qualify as business facilities.

## Leased business facilities

If a taxpayer owns a business facility in an enterprise zone and leases the entire facility to another person or business, the taxpayer cannot claim any employee credits with respect to the facility. If the taxpayer leases part of that facility to another person or company and operates a revenue-producing enterprise in the remaining part, the taxpayer may claim employee credits only with respect to employees employed by the taxpayer in that revenue-producing enterprise.

## Revenue-producing enterprises

The taxpayer must operate the business facility in a revenue-producing enterprise that engages in one or more of the following activities:

- the production, assembly, fabrication, manufacturing, or processing of any agricultural, mineral, or manufactured product;
- the storage, warehousing, distribution, or sale of any products of agriculture, mining, or manufacturing;
- the feeding of livestock at a feedlot;
- the operation of laboratories or other facilities for scientific, agricultural, animal husbandry, or industrial research, development, or testing;
- the performance of services of any type; or
- the administrative management of any of these activities.

## Business facility employees

A taxpayer may claim business facility employee credits only with respect to employees who satisfy the business facility, time, and withholding requirements described in *Table 4-1* on the following page.

*Part 4: Business Facility New Employee Credits*

**Table 4-1. Business Facility New Employee Requirements**

<i>Business facility requirement</i>	<i>Time requirement</i>	<i>Withholding requirement</i>
<p>The employee must be employed by the taxpayer in the operation of the taxpayer’s business facility during the taxable year for which the credit is claimed. The employee’s duties may be performed:</p> <ul style="list-style-type: none"> <li>➤ at the business facility;</li> <li>➤ on the land on which the business facility is located;</li> <li>➤ with respect to any machinery, equipment, or property located at and used in connection with the operation of the facility; or</li> <li>➤ at another location within the enterprise zone, provided that the employee performs duties in connection with the operation of the business facility.</li> </ul>	<p>The employee must perform duties in connection with the operation of the business facility on:</p> <ul style="list-style-type: none"> <li>➤ a regular, full-time basis;</li> <li>➤ a part-time basis if the person is customarily performing his or her duties at least twenty hours per week throughout the taxable year; or</li> <li>➤ a seasonal basis if the person performs his or her duties for substantially all of the season customary for the position in which the person is employed.</li> </ul>	<p>The employee must receive compensation for duties performed in the operation of the business facility from which Social Security, Medicare, and income taxes are withheld by either:</p> <ul style="list-style-type: none"> <li>➤ the taxpayer; or</li> <li>➤ an employee leasing company acting as the employing unit for, or co-employer with, the taxpayer, if the taxpayer is a work-site employer. See section 8-70-114(2)(a)(V) and (VII), C.R.S.</li> </ul> <p>The withholding requirement is not satisfied with respect to any “statutory employee” for whom the taxpayer withholds Social Security and Medicare taxes, pursuant to I.R.C. section 3121(d)(3), but not income taxes.</p>

**Minimum time requirement**

An employee will generally not qualify as a business facility employee if either:

- the employee’s duties are not performed in connection with the operation of the business facility; or
- the employee’s duties are performed outside of the enterprise zone.

In order to qualify as a business facility employee, the employee must, throughout the taxable year, customarily perform duties for at least twenty hours per week both within the enterprise zone and in connection with the operation of the business facility.

Special minimum time requirement rules apply to certain commercial drivers. An employee whose primary duties consist of operating a commercial motor vehicle with a commercial driver’s license shall be deemed to be working 100% within the zone if the employee spends no more than 5% of his or her total time at any business of the employer other than the business within the zone.



## Employee credit calculation

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The credit is based on the taxpayer’s total number of business facility employees, averaged over the course of the tax year, as described later in this section. For the business facility’s first year of operation, the taxpayer is allowed a credit of \$1,100 for each business facility employee working within the enterprise zone. For each subsequent tax year, the taxpayer is allowed a credit of \$1,100 for each additional business facility employee working within the enterprise zone in excess of the highest total number of business facility employees for any prior tax year. For any year subsequent to the facility’s first year of operation, the credit is allowed only for the additional employees at the facility, even if the taxpayer did not operate the facility in the prior year(s) and/or acquired the facility from another taxpayer.

### Averaging employees for the year

In determining the credit, the taxpayer must calculate the total number of business facility employees working for the taxpayer in the enterprise zone for the current tax year and for each preceding tax year. In general, the number of business facility employees for any year is calculated by adding together the number of business facility employees on the last business day of each month of the tax year and dividing the total by 12. The taxpayer must use this formula even if the taxpayer’s tax year is a short tax year consisting of fewer than 12 months.

However, if the taxpayer’s business facility is in operation for less than the entire tax year, the number of business facility employees is calculated by adding together the number of business facility employees on the last business day of each full calendar month of the tax year during which the facility was in operation and dividing the total by the number of such full calendar months of operation. If the business facility’s period of operation commences or ceases during a calendar month, and the business facility is therefore not in operation for the full calendar month, that partial month of operation is not considered in the calculation of business facility employees.

## Replacement business facilities

If the taxpayer’s business facility is a “replacement business facility,” special rules apply for calculating the number of business facility employees. See section 39-30-105(7)(h), C.R.S., as it existed prior to 2019, in *Appendix A* for full definitions of “replacement business facility” and other related terms.

In calculating the credit for a replacement business facility, the average number of business facility employees for any given year must be reduced by the average number of employees at the old facility during the three taxable years preceding the first taxable year that the replacement business facility is first available for use by the taxpayer or capable of being used by the taxpayer in a revenue-producing enterprise.

## Other employee credits

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Taxpayers may be able to claim up to four additional credits for business facility employees. Qualifying criteria for these credits are detailed in *Table 4-2* on the following page.

## Enhanced rural enterprise zones

An enhanced rural enterprise zone is any portion of any county that is within the boundaries of an enterprise zone and that meets certain criteria established by law. Every two years, the Office of Economic Development and International Trade (“OEDIT”) determines which counties meet the qualifying criteria to be designated as enhanced rural enterprise zones. See [choosecolorado.com/doing-business/incentives-financing/ez/](http://choosecolorado.com/doing-business/incentives-financing/ez/) and section 39-30-103.2, C.R.S., for additional information regarding the designation of enhanced rural enterprise zones.



**Calculation for other employee credits**

Except for the health insurance credit, the other employee credits shown in *Table 4-2* are allowed only with respect to employees for whom the taxpayer claims the standard enterprise zone employee credit. The taxpayer must first calculate the number of business facility employees (for the first year of operation) or the number of additional business facility employees (for any subsequent year of operation) and

then determine which of those employees meet the additional qualifying criteria detailed in *Table 4-2*.

A taxpayer may claim the health insurance credit only for the first two full tax years the taxpayer is located in the enterprise zone. Any tax year of less than 12 months is not considered a full tax year. The taxpayer may claim the health insurance credit each of the first two full tax years for each employee that meets the qualifying criteria.

**Table 4-2. Business Facility New Employee Credits**

Credit	Qualifying criteria	Credit per employee	Carry-forward
Enterprise zone employee credit	<ul style="list-style-type: none"> <li>➤ The employee must be a business facility employee who satisfies the requirements described in <i>Table 4-1</i>.</li> </ul>	\$1,100	5 years
Enhanced rural enterprise zone employee credit	<ul style="list-style-type: none"> <li>➤ The employee must be a business facility employee who satisfies the requirements described in <i>Table 4-1</i>.</li> <li>➤ The employee must work during the tax year in an enhanced rural enterprise zone (see page 17).</li> </ul>	\$2,000	7 years
Enterprise zone agricultural manufacturing or processing employee credit	<ul style="list-style-type: none"> <li>➤ The employee must be a business facility employee who satisfies the requirements described in <i>Table 4-1</i>.</li> <li>➤ The taxpayer must operate a business facility that adds value to agricultural commodities through manufacturing or processing.</li> <li>➤ The employee does not need to work directly in agricultural manufacturing or processing, but must be employed in the operation of the facility that adds value to agricultural commodities through manufacturing or processing.</li> </ul>	\$500	5 years
Enhanced rural enterprise zone agricultural manufacturing or processing employee credit	<ul style="list-style-type: none"> <li>➤ The employee must be a business facility employee who satisfies the requirements described in <i>Table 4-1</i>.</li> <li>➤ The employee must work during the tax year in an enhanced rural enterprise zone (see page 17).</li> <li>➤ The taxpayer must operate a business facility that adds value to agricultural commodities through manufacturing or processing.</li> <li>➤ The employee does not need to work directly in agricultural manufacturing or processing, but must be employed in the operation of the facility that adds value to agricultural commodities through manufacturing or processing.</li> </ul>	\$500	7 years
Enterprise zone employee health insurance credit	<ul style="list-style-type: none"> <li>➤ The employee must be a business facility employee who satisfies the requirements described in <i>Table 4-1</i>.</li> <li>➤ The employee must be insured under a health insurance plan or program provided by the taxpayer.</li> <li>➤ The taxpayer must contribute 50% or more of the total cost of the health insurance plan or program.</li> <li>➤ The plan or program must be a self-insurance program or comply with the provisions of Parts 1, 2, 3, or 4 of Article 16 of Title 10, C.R.S.</li> <li>➤ The health insurance plan or program must include partial or complete coverage for hospital and physician services.</li> </ul>	\$1,000	5 years

## Part 4: Business Facility New Employee Credits

### Examples

The following examples illustrate the calculation of business facility employee credits.

#### Example 4-1. First tax year of operation

A taxpayer begins operation of its business facility on March 18<sup>th</sup>. The taxpayer's tax year runs from March 18<sup>th</sup> through December 31<sup>st</sup>. The number of employees working at the facility on the last business day of each month is:

March:	6	August:	18
April:	8	September:	24
May:	9	October:	26
June:	12	November:	25
July:	15	December:	37

The number of business facility employees for the year is calculated by adding together the number of business facility employees on the last business day of each month of the tax year and dividing the total (180) by 12. The result is a total of 15 business facility employees for the tax year. The taxpayer is allowed a credit of \$1,100 for each employee or \$16,500 total (\$1,100 x 15).

#### Example 4-2. Subsequent tax years

The taxpayer described in *Example 4-1* continues operation of its business facility in the next three tax years. Using the formula described in *Example 4-1* and on page 14, the taxpayer has 15 business facility employees in the 1st year, 22 in the 2nd year, 18 in the 3rd year, and 25 in the 4th year. The following table illustrates the increase in employees over the highest preceding year and the allowable credit for each year.

Tax Years	2nd year	3rd year	4th year
Employees for tax year	22	18	25
Highest total number of employees in any prior year	15	22	22
Increase over highest prior year	7	0	3
Allowable credit	\$7,700	\$0	\$3,300

#### Example 4-3. Health insurance credit

The taxpayer described in *Examples 4-1* and *4-2* provides health insurance each year to all employees. The insurance meets the requirements to qualify for the health insurance credit.

The taxpayer's first tax year of operation was not a full tax year, so the taxpayer cannot claim the health insurance credit for that year. Instead, the taxpayer can claim the credit for the 2nd and 3rd years of operation, since those are the taxpayer's first two full tax years located in the enterprise zone.

The taxpayer had 22 qualifying employees in the 2nd year and 18 qualifying employees in the 3rd year. The taxpayer can claim a credit of \$22,000 (\$1,000 x 22) for the 2nd year and \$18,000 (\$1,000 x 18) for the 3rd year.



**Example 4-4. Other employee credits**

The business facility of the taxpayer described in *Examples 4-1* and *4-2* was not in an enhanced rural enterprise zone in the year it began operations. However, beginning with the 3rd year of operation, the location of the facility was designated as an enhanced rural enterprise zone.

The taxpayer did not increase employees at the facility in the 3rd year (18 employees for the year compared with 22 in a prior year), so the taxpayer could not claim the standard employee credit or the enhanced rural employee credit for the 3rd year.

In the 4th year, the taxpayer’s 25 employees represented an increase of three employees over the highest total number of employees in any prior year. The taxpayer can claim both a standard employee credit of \$3,300 (\$1,100 x 3) and the enhanced rural enterprise zone credit of \$6,000 (\$2,000 x 3) for these three additional employees.

**Example 4-5. Partial year operations**

A taxpayer operates a business facility in an enterprise zone from May 27<sup>th</sup> through October 18<sup>th</sup>. At all other times throughout the year, there is no activity and there are no employees working at the facility. The taxpayer’s tax year runs from January 1<sup>st</sup> through December 31<sup>st</sup>. The calculation of the number of business facility employees for the year includes only the full calendar months of operation. The number of employees working at the facility on the last business day of each full calendar month of operation is:

June:	9	August:	14
July:	12	September:	5

The number of business facility employees for the year is calculated by adding together the number of business facility employees on the last business day of each month of the tax year and dividing the total (40) by the number of full calendar months of during which the facility was in operation (4). The result is a total of 10 business facility employees for the tax year. The taxpayer is allowed a credit of \$1,100 for each employee or \$11,000 total (\$1,100 x 10).

**Credit carryforwards**

The credit a taxpayer can use for any tax year is limited to the taxpayer’s net tax liability. If the allowable credit exceeds the taxpayer’s net tax liability, the taxpayer can carry forward the excess credit for application toward the tax due for subsequent tax years. See *Table 4-2* for the allowable carryforward period applicable to the different enterprise zone employee credits. Any credit that has not been used within the carryforward period expires and is no longer available to the taxpayer.

**Additional resources**

The following is a list of statutes, regulations, forms, and guidance relevant to enterprise zone business facility employee credits. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Individuals and businesses with specific questions should consult their tax advisors.

**Statutes and regulations**

- § 39-30-105.1, C.R.S. Credit for new enterprise zone business employees - definitions.

**Forms and guidance**

- [Colorado.gov/Tax](https://colorado.gov/Tax)
- [choosecolorado.com/doing-business/incentives-financing/ez/](https://choosecolorado.com/doing-business/incentives-financing/ez/)

A taxpayer who invests in a qualified job training program for employees who work predominantly within an enterprise zone may claim a credit equal to 12% of the qualified investment. This Part 5 includes information about qualified job training programs, qualified investments, the credit calculation, and the allowable carryforward period for any excess credits.

## Qualified job training programs

A qualified job training program is a structured training or basic education program to improve the job skills of the taxpayer's employees who work predominantly within an enterprise zone. The program may be conducted at the taxpayer's location or off-site. The training program may be conducted by the taxpayer or by another entity.

## Qualified investment

For the purpose of calculating the credit, the qualified investment may include both investments in real property, capital equipment, and other expenses that meet the following requirements.

### Real property and capital equipment

The taxpayer's costs in purchasing, leasing, or improving real property or capital equipment may qualify for the credit. The property or equipment:

- must be used entirely within an enterprise zone;
- must be used primarily for qualified job training program purposes or to make a training site accessible;
- must not be eligible for enterprise zone investment tax credit discussed in *Part 3* of this publication; and
- may include land, buildings, real property improvements, leasehold improvements, leased space, or capital equipment.

## Other expenses

Other expenses incurred by the taxpayer either inside or outside of an enterprise zone may be qualified investments. Such expenses must be incurred for a qualified job training program for employees working predominantly within an enterprise zone. Examples of qualifying expenses include:

- expensed equipment,
- supplies,
- training staff wages or fees,
- training contract costs,
- temporary space rental, and
- travel expenses.

## Credit calculation and carryforward

The allowable credit is equal to 12% of the taxpayer's qualified investment during the tax year in a qualified job training program.

The limits on credit use discussed in *Part 3* apply to the investment tax credit and the job training investment tax credit. The combined amount of investment tax credit and job training investment tax credit a taxpayer applies to offset tax for a given tax year cannot exceed the limits on credit use. Any excess credit that cannot be used to offset tax can be carried forward to the following tax year as discussed in *Part 3*.



## Additional resources

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The following is a list of statutes, regulations, forms, and guidance pertaining to the enterprise zone job training investment tax credit. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Individuals and businesses with specific questions should consult their tax advisors.

### Statutes and regulations

- § 39-30-104, C.R.S. Credits against tax - investment in certain property - definitions.

### Forms and guidance

- [Colorado.gov/Tax](https://colorado.gov/Tax)
- [choosecolorado.com/doing-business/incentives-financing/ez/](https://choosecolorado.com/doing-business/incentives-financing/ez/)

An income tax credit is allowed to any taxpayer who makes expenditures in research and experimental activities conducted in an enterprise zone for the purpose of carrying out a trade or business. This Part 6 provides information about qualifying expenditures and calculation of the credit.

### Research and experimental expenditures

Research or experimental expenditures that qualify for the credit include expenditures incurred in connection with the taxpayer's trade or business which represent research and development costs in the experimental or laboratory sense. These expenditures generally include all costs incident to the development or improvement of a product.

A "product" for which research and experimental expenditures are made can be a pilot model, process, formula, invention, technique, patent, or similar property. The product can be used by the taxpayer in its trade or business or developed for sale, lease, or license.

Whether expenditures qualify as research or experimental expenditures depends on the nature of the activity to which the expenditures relate, not the nature of the product or improvement being developed or the level of technological advancement the product or improvement represents. The ultimate success, failure, sale, or use of the product is not relevant to a determination of eligibility of expenditures for the credit.

Research or experimental expenditures are those made for activities intended to discover information that would eliminate uncertainty concerning the development or improvement of a product. Uncertainty exists if the information available to the taxpayer does not establish the capability or method for developing or improving the product or the appropriate design of the product. Costs may qualify for the credit if paid or incurred after production begins, but before uncertainty concerning the development or improvement of the product is eliminated.

### Qualifying expenditures

Qualifying expenditures generally include all costs incident to the development or improvement of a product. Examples of qualifying expenditures include:

- salaries for those engaged in research or experimentation efforts;
- amounts incurred to operate and maintain research facilities (e.g., utilities, depreciation, rent, etc.);
- expenditures for materials and supplies used and consumed in the course of research or experimentation (including amounts incurred in conducting trials);
- the costs of obtaining a patent, such as attorneys' fees expended in making and perfecting a patent application; and
- expenditures paid or incurred for research or experimentation conducted on the taxpayer's behalf by another person or organization (such as a research institute, foundation, engineering company, or similar contractor).

The credit is allowed only for the amount of research and experimental expenditures that is reasonable under the circumstances. In general, the amount of an expenditure for research or experimental activities is reasonable if the amount would ordinarily be paid for like activities by like enterprises under like circumstances. Amounts supposedly paid for research that are not reasonable under the circumstances may be characterized as disguised dividends, gifts, loans, or similar payments.

See I.R.C. section 174 and 26 CFR § 1.174-2 for additional information about research and experimental expenditures.



## Non-qualifying expenditures

The credit is not allowed for any expenditures for:

- the acquisition or improvement of land or depreciable property;
- the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (including oil and gas);
- the ordinary testing or inspection of materials or products for quality control (quality control testing);
- efficiency surveys;
- management studies;
- consumer surveys;
- advertising or promotions;
- the acquisition of another's patent, model, production or process; or
- research in connection with literary, historical, or similar projects.

## Credit calculation

The allowable credit is based upon an increase in the taxpayer's research and experimental expenditures in an enterprise zone over the two prior years. The credit is equal to 3% of the amount by which the taxpayer's research and experimental expenditures in an enterprise zone exceed the average of the taxpayer's research and experimental expenditures in the same enterprise zone over the two preceding tax years.

The credit calculated as described above is not allowed entirely for the tax year in which the expenditures were made. Instead, the credit is divided evenly over four tax years. Twenty-five percent of the credit is allowed for the tax year in which the expenditures were made and 25% of the credit is allowed for each of the subsequent three tax years.

## Credit carryforward

If the credit allowed exceeds the income tax the taxpayer otherwise owes for the tax year, the excess credit may be carried forward and applied toward the taxpayer's tax liability for following tax year. Any excess credit after application toward tax for the subsequent year may be further carried forward until the full amount of the credit has been used.



**Examples**

The following examples illustrate the calculation of the credit and carryforwards.

**Example 6-1**

A taxpayer incurs \$140,000 in expenditures for research and experimental activities conducted in an enterprise zone in tax year 2017. The taxpayer’s research and experimental expenditures in the same enterprise zone for tax years 2015 and 2016 were \$0 and \$100,000, respectively, for an average of \$50,000. The \$140,000 of expenditures in 2017 is \$90,000 more than the taxpayer’s average expenditures in the same enterprise zone over the two preceding tax years.

The total allowable credit is \$2,700 (3% x \$90,000). The credit is divided evenly over the current tax year and the three following tax years. The taxpayer can claim a credit of \$675 (25% of the total credit) for tax year 2017 and for each of the three subsequent tax years.

*Illustration of Example 6-1*

2015 expenditures	\$ 0
2016 expenditures	\$ 100,000
2017 expenditures	\$ 140,000
Average of 2015 and 2016	\$ 50,000
2017 expenditures minus the average from the two prior years	\$ 90,000
Total credit (3% of increase)	\$ 2,700
Credit allowed for 2017 (25% of total)	\$ 675
Credit allowed for 2018 (25% of total)	\$ 675
Credit allowed for 2019 (25% of total)	\$ 675
Credit allowed for 2020 (25% of total)	\$ 675

**Example 6-2**

The taxpayer from *Example 6-1* incurs \$200,000 in expenditures for research and experimental activities conducted in the same enterprise zone in tax year 2018. The taxpayer’s average expenditures in the same enterprise zone in the two prior tax years were \$120,000 (\$100,000 for tax year 2016 and \$140,000 for tax year 2017). The \$200,000 of expenditures in 2018 is \$80,000 more than the taxpayer’s average expenditures in the same enterprise zone over the two preceding tax years.

The total allowable credit is \$2,400 (3% x \$80,000). The total allowable credit is divided evenly over the current tax year and the three following tax years. The taxpayer can claim a credit of \$600 (25% of the total credit) for tax year 2018 and for each of the three subsequent tax years.

*Illustration of Example 6-2*

2016 expenditures	\$ 100,000
2017 expenditures	\$ 140,000
2018 expenditures	\$ 200,000
Average of 2016 and 2017	\$ 120,000
2018 expenditures minus the average from the two prior years	\$ 80,000
Total credit (3% of increase)	\$ 2,400
Credit allowed for 2018 (25% of total)	\$ 600
Credit allowed for 2019 (25% of total)	\$ 600
Credit allowed for 2020 (25% of total)	\$ 600
Credit allowed for 2021 (25% of total)	\$ 600



### Example 6-3

The taxpayer from *Examples 6-1* and *6-2* had a tax liability of \$400 for tax year 2017. The taxpayer applied \$400 of the \$675 credit allowed for tax year 2017 to offset the entire tax amount due. The remaining \$275 of credit is carried forward to tax year 2018.

For tax year 2018, the taxpayer will have available credits totaling \$1,550, consisting of the following:

- \$675, equal to 25% of the total credit allowed for expenditures made during 2017;
- \$600, equal to 25% of the total credit allowed for expenditures made during 2018; and
- \$275 allowed in the prior year and carried forward to the 2018 tax year.

The taxpayer's 2018 tax liability is \$500. After applying \$500 of the available credit to offset the tax due, the taxpayer has \$1,050 credit remaining to carry forward to tax year 2019.

## Additional resources

The following is a list of statutes, regulations, forms, and guidance pertaining to the enterprise zone research and experimental activities credit. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Individuals and businesses with specific questions should consult their tax advisors.

### Statutes and regulations

- § 39-30-105.5, C.R.S. Credit...for research and experimental activities.
- I.R.C. § 174. Research and experimental expenditures.
- 26 CFR § 1.174-2. Definition of research and experimental expenditures.

### Forms and guidance

- [Colorado.gov/Tax](https://colorado.gov/tax)
- *Certification of Qualified Enterprise Zone Research & Development Expenditures (DR 0077)*



Any taxpayer who is the owner or tenant of a qualified building in an enterprise zone may claim an income tax credit for qualified expenditures for the purpose of rehabilitating the building. This Part 7 provides information about qualifying expenditures and the credit calculation.

## Qualified buildings

A qualified building is a building located in an enterprise zone that is at least 20 years old and has been unoccupied for at least two years. The pre-certification described in *Part 1* of this publication must identify the location of the building.

## Qualified expenditures

Qualified expenditures are expenditures necessary to rehabilitate a qualified building for commercial use that are associated with any:

- exterior improvements,
- structural improvements,
- mechanical improvements, or
- electrical improvements.

### Examples of Qualified Expenditures

*Qualified expenditures necessary to rehabilitate a qualified building may include expenditures associated with any of the following:*

- demolition
- painting
- exterior repair
- carpentry
- ceilings
- tuckpointing
- sheetrock
- fixtures
- cleanup
- plaster
- doors
- roofing and
- windows
- cleaning
- flashing
- sprinkler systems for fire protection purposes

## Non-qualified expenditures

A variety of costs that may be associated with rehabilitation do not qualify for the credit. Qualified expenditures do not include costs associated with:

- acquisition
- interior furnishings
- excavation
- landscaping
- grading
- repairs to outbuildings
- paving
- new additions, except as may be required to comply with building and safety codes

Additionally, “soft costs” do not qualify for the credit. “Soft costs” include costs associated with:

- loan fees
- bid bonds
- closing
- appraisals
- bids
- sales and marketing
- insurance
- project signs and phones
- copying
- temporary power
- rent loss during construction
- building permit, use, and inspection fees
- legal, accounting, and realtor fees
- architectural, engineering, and interior design fees



## Part 7: Vacant Building Rehabilitation Credit

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### Credit calculation

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The allowable credit is generally equal to 25% of the taxpayer's aggregate qualified expenditures during the tax year. However, the total credit a taxpayer can claim for any qualified building is limited to \$50,000. Additionally, a taxpayer who is allowed a federal rehabilitation credit pursuant to sections 38, 46, and 47 of the Internal Revenue Code cannot claim the vacant building rehabilitation credit for the same rehabilitation expenditures.

### Credit carryforwards

The credit a taxpayer can use for any tax year is limited to the taxpayer's net tax liability. If the allowable credit exceeds the taxpayer's net tax liability, the taxpayer can carry forward the excess credit for application toward the tax due for subsequent tax years. Credits may be carried forward up to five tax years. Any credit that has not been used within the carryforward period expires and is no longer available to the taxpayer.

### Certification

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Any taxpayer who intends to claim a credit must first obtain pre-certification from the applicable enterprise zone administrator. See *Part 1* for additional information about pre-certification.

Any taxpayer claiming the credit must obtain certification of the qualified nature of expenditures from the enterprise zone administrator. See Certification of Qualified Nature of Enterprise Zone Rehabilitation Expenditures (DR 0076) and [choosecolorado.com/doing-business/incentives-financing/ez/](https://choosecolorado.com/doing-business/incentives-financing/ez/) for additional information.

### Additional resources

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The following is a list of statutes, regulations, forms, and guidance pertaining to the vacant building rehabilitation credit. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Individuals and businesses with specific questions should consult their tax advisors.

#### Statutes and regulations

- § 39-30-105.6, C.R.S. Credit against tax - rehabilitation of vacant buildings.

#### Forms and guidance

- [Colorado.gov/Tax](https://colorado.gov/Tax)
- [choosecolorado.com/doing-business/incentives-financing/ez/](https://choosecolorado.com/doing-business/incentives-financing/ez/)



*The enterprise zone investment tax credit and business facility employee credits both rely on definitions contained in section 39-30-105(7), C.R.S., as it existed prior to repeal. This section of statute is reproduced below.*

- (7) As used in this section, unless the context otherwise requires:
- (a) "Building" means only structures within which individuals are customarily employed or that are customarily used to house machinery, equipment, or other property.
  - (b) "Commencement of commercial operations" means the first taxable year that the new business facility is first available for use by the taxpayer, or first capable of being used by the taxpayer, in the revenue-producing enterprise in which the taxpayer intends to use the new business facility.
  - (c) (I) "Facility" means any factory, mill, plant, refinery, warehouse, feedlot, building, or complex of buildings located within the state, including the land on which the facility is located and all machinery, equipment, and other real and tangible personal property located at or within the facility and used in connection with the operation of the facility.
    - (II) (A) If a facility that does not constitute a new business facility is expanded by the taxpayer, the expansion shall be considered a separate facility eligible for the credit allowed by this section if: The taxpayer's investment in the expansion exceeds one million dollars or the investment is less than one million dollars but the investment in the expansion exceeds one hundred percent of the investment in the original facility prior to expansion; and the expansion otherwise constitutes a new business facility.
    - (B) The taxpayer's investment in the expansion and in the original facility prior to expansion shall be determined in the manner provided in paragraph (g) of this subsection (7).
    - (III) If a facility that does not constitute a new business facility is expanded by the taxpayer, the expansion shall be considered a separate facility for purposes of the credit allowed by this section if:
      - (A) The expansion results in the employment of ten or more new business facility employees or, for income tax years commencing on or after January 1, 1996, but prior to January 1, 2014, a ten percent increase in the number of new business facility employees resulting in the employment of at least one full-time new business facility employee, whichever is less, during the taxable year over and above the average number of employees employed in the enterprise zone by the taxpayer during the twelve months immediately prior to the expansion, determined pursuant to subsection (6) of this section; and
      - (B) The expansion otherwise constitutes a new business facility.
  - (d) "Net annual rental rate" means the annual rental rate paid by the taxpayer on real and tangible personal property, less any annual rental rate received by the taxpayer from subrentals.

*Appendix A: Section 39-30-105(7), C.R.S.*

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- (e) "New business facility" means a facility that satisfies the following requirements:
- (I) The facility is operated by the taxpayer in the operation of a revenue-producing enterprise. A facility shall not be considered a new business facility in the hands of the taxpayer if the taxpayer's only activity with respect to the facility is to lease it to another person. If the taxpayer operates only a portion of the facility in the operation of a revenue-producing enterprise and leases another portion of the facility to another person or does not otherwise use the other portions in the operation of a revenue-producing enterprise, the portion operated by the taxpayer in the operation of a revenue-producing enterprise shall be considered a new business facility if the requirements of subparagraphs (II) and (III) of this paragraph (e) are satisfied.
  - (II) If the facility was acquired by the taxpayer from another person, the facility was not operated immediately prior to the transfer of title to the facility to the taxpayer or immediately prior to the commencement of the term of the lease of the facility to the taxpayer by any other person in the operation of a revenue-producing enterprise, and the taxpayer continues the operation of the same or a substantially identical revenue-producing enterprise at the facility.
  - (III) The facility is not a replacement business facility.
- (f) "New business facility employee" means a person employed by the taxpayer in the operation of a new business facility during the taxable year for which the credit allowed by this section is claimed. A person shall be deemed an employee if the person performs duties in connection with the operation of the new business facility on:
- (I) A regular, full-time basis;
  - (II) A part-time basis if the person is customarily performing his or her duties at least twenty hours per week throughout the taxable year; or
  - (III) A seasonal basis if the person performs his or her duties for substantially all of the season customary for the position in which the person is employed.
- (g) "New business facility investment" means the value of the real and tangible personal property, except inventory or property held for sale to customers in the ordinary course of the taxpayer's business, that constitutes the new business facility or that is used by the taxpayer in the operation of the new business facility during the taxable year for which the credit allowed by this section is claimed. The value of the property during the taxable year shall be:
- (I) The original cost of the real and tangible personal property if owned by the taxpayer; or
  - (II) Eight times the net annual rental rate of the real and tangible personal property if leased by the taxpayer.

*Appendix A: Section 39-30-105(7), C.R.S.*

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- (h) (I) "Related taxpayer" means:
- (A) A corporation, partnership, limited liability company, trust, or association controlled by the taxpayer;
  - (B) An individual, corporation, limited liability company, partnership, trust, or association under the control of the taxpayer; or
  - (C) A corporation, limited liability company, partnership, trust, or association controlled by an individual, corporation, limited liability company, partnership, trust, or association under the control of the taxpayer.
- (II) For the purposes of this paragraph (h), unless the context otherwise requires:
- (A) "Control of a corporation" means ownership, directly or indirectly, of stock possessing at least eighty percent of the total combined voting power of all classes of stock entitled to vote and at least eighty percent of all other classes of stock of the corporation.
  - (B) "Control of a partnership, limited liability company, or association" means ownership of at least eighty percent of the capital or profits interest in the partnership, limited liability company, or association.
  - (C) "Control of a trust" means ownership, directly or indirectly, of at least eighty percent of the beneficial interest in the principal or income of the trust.
- (i) (I) "Replacement business facility" means a facility, otherwise described in paragraph (e) of this subsection (7) and referred to in this paragraph (i) as a "new facility", which replaces another facility, referred to in this paragraph (i) as an "old facility", located within the state that the taxpayer or a related taxpayer previously operated but discontinued operating on or before the close of the first taxable year in which the credit allowed by this section is claimed. A new facility shall be deemed to replace an old facility if the following conditions are met:
- (A) The old facility was operated by the taxpayer or a related taxpayer for more than three full taxable years out of the five taxable years next preceding the taxable year in which commencement of commercial operations occurs at the new facility; and
  - (B) The old facility was operated by the taxpayer or a related taxpayer in the operation of a revenue-producing enterprise and the taxpayer continues the operation of the same or a substantially identical revenue-producing enterprise at the new facility.
- (II) Notwithstanding the provisions of subparagraph (I) of this paragraph (i), a facility shall not be considered a replacement business facility if the taxpayer's investment in the new facility exceeds three million dollars or the investment is less than three million dollars but the investment in the new facility exceeds three hundred percent of the investment in the old facility by the taxpayer or related taxpayer. The investment in the new facility and in the old facility shall be determined in the manner provided in paragraph (g) of this subsection (7).

*Appendix A: Section 39-30-105(7), C.R.S.*

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- (j) "Revenue-producing enterprise" means an enterprise that engages in the following:
- (I) The production, assembly, fabrication, manufacturing, or processing of any agricultural, mineral, or manufactured product;
  - (II) The storage, warehousing, distribution, or sale of any products of agriculture, mining, or manufacturing;
  - (III) The feeding of livestock at a feedlot;
  - (IV) The operation of laboratories or other facilities for scientific, agricultural, animal husbandry, or industrial research, development, or testing;
  - (V) The performance of services of any type;
  - (VI) The administrative management of any of the activities listed in subparagraphs (I) to (V) of this paragraph (j); or
  - (VII) Any combination of any of the activities referred to in subparagraphs (I) to (VI) of this paragraph (j).
- (k) "Same or a substantially identical revenue-producing enterprise" means a revenue-producing enterprise in which the products produced or sold, services performed, or activities conducted are the same in character and use and are produced, sold, performed, or conducted in the same manner and to or for the same types of customers as the products, services, or activities produced, sold, performed, or conducted in another revenue-producing enterprise.