

# Arkansas Recycling Tax Credits: October 7th Arkansas Environmental Federation/Annual Convention Presentation



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I undertook a presentation at the October 7th Arkansas Environmental Federation virtual Annual Convention titled:

*Arkansas Recycling Tax Credits ("Presentation")*

The *Presentation* focused on an Arkansas statute/program that arguably provides significant financial incentives and benefits some or all of the following:

- Environment
- Resource Recovery/Recycling
- Energy Reduction
- Industrial Development
- Feedstock cost reduction
- Reduce of waste disposal costs

The Arkansas Recycling Tax Credit is a state income tax credit found at Ark. Code Ann. §26-51-506 et seq.

The purpose of the *Presentation* was to ensure that industrial and commercial facilities understand that:

- 30% of the cost of eligible machinery and equipment can be deducted from Arkansas state income tax
- Can increase demand for recyclables or generate supply
- Can support the use of alternative materials to reduce feedstock, waste disposal, or energy costs

The *Presentation* addressed:

- Scope of the tax credit
- Process for obtaining the tax credit
- Carryover issues
- History of the tax credit
- Implementation by the Arkansas Department of Energy and Environment – Division of Environmental Quality ("DEQ")
- Process for certification by DEQ
- Key issues/strategic planning

The *Presentation* also noted that this is one of the two key programs (not counting energy programs) that DEQ administers that:

- Is non-regulatory/non-enforcement
- Provides significant financial incentives to encourage environmentally beneficial activities

The other program is the Arkansas Petroleum Storage Tank Trust Fund.

By way of history, it was noted that an Arkansas General Assembly Study Committee (“Study Committee”) was formed in 1991 to address Arkansas landfill/solid waste issues because of the perception of inadequate landfill space and opposition to interstate transfer of solid waste. An additional reason was the concern about underfunded/undercapitalized landfills operated by various, numerous communities.

The Study Committee drafted legislation in 1993 that formed the Regional Solid Waste Management Districts that also created the Arkansas Recycling Tax Credit.

The tax credit provides a 30% Arkansas income tax credit for waste reduction, reuse or recycling machinery or equipment which is defined as:

. . . new or used machinery or equipment located in Arkansas on the last day of the taxable year which is operated or used exclusively in Arkansas to collect, separate, process, modify, convert or treat solid waste so that the resulting product may be used as a raw material or for productive use or to manufacture products containing recovered materials (including cost of installation).

However, the machinery or equipment must contain at least 50% recovered materials and 10% of the recovered materials must be post-consumer waste.

The tax credit does include devices which are directly connected with or are an integral and necessary part of such machinery or equipment and are necessary for such collection, separating, etc.

The *Presentation* addressed key statutory terms such as:

- Solid waste
- Post-consumer waste
- Recovered materials
- Pre-consumer material
- Home scrap

Further, exclusions were addressed such as:

- Feasibility studies
- Engineering costs of building to house equipment
- Equipment used to service the equipment
- Cost of service contracts, sales tax, maintenance, repairs
- Motor vehicles (i.e., licensed vehicle or trailer)
- Equipment or machinery must provide additional capacity or capability
- No other credits from other programs can have been utilized for the machinery or equipment
- Credit cannot be recreated upon sale of machinery or equipment

A tax credit carryover of three years is provided.

DEQ Enterprise Services administers the program and Tommy Edgman is the principal contact. Mr. Edgman has many years of experience with the program.

DEQ promulgated Rule No. 16 to implement the program (which includes application forms).

The application or pre-application process was discussed which involves DEQ determining whether the machinery or equipment can be certified as eligible. The process for appealing a decision was addressed.

Strategies/considerations include:

- Are there opportunities to utilize for some beneficial purpose (energy, feedstock, construction, etc.) some type of solid waste?
- Note that terms such as “collect,” process,” separate,” “modify,” “convert,” or “treat” mean there may be a variety of machinery or equipment that may be eligible (cradle to grave)
- Do not wait until the end of the year to submit application because there will be a lag time for review of application and DEQ trip to the facility to verify equipment/machinery.
- Include a log in the application which indexes the invoices submitted (do not just toss a bunch of invoices to DEQ).
- Caveat in replacing equipment or machinery that replacement must provide greater capacity for recycling or additional capability.
- Ensure deadlines are tracked for eligibility submission.
- Do not hesitate to discuss with DEQ staff as they have a great deal of historical insight and genuinely encourage innovation within the limits of the statute

A copy of the slides from the *Presentation* can be downloaded [here](#).