



## ARKANSAS NATURAL RESOURCES COMMISSION

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# Tax Credit Program for the Creation, Restoration, and Conservation of Wetland and Riparian Zones

### **What is the purpose of this program?**

Wetlands and riparian zones provide significant benefits, including flood control, water quality enhancement, fish and wildlife habitat, recreation, and recharging of groundwater. This program encourages private owners of wetlands and riparian zones to obtain creation and restoration credits by restoring and enhancing property or by creating wetlands and riparian zones. In 2009, the Legislature included conservation credits within this program for persons donating wetland and riparian zone qualified real property interests to eligible donees.

### **How much tax credit can I receive?**

Applicants can apply for creation and restoration tax credits equivalent to project costs incurred, but not exceeding \$50,000. Applicants can apply for conservation credits equivalent to 50% of the fair market value of donated property, and also shall not exceed \$50,000. A taxpayer can use up to \$5,000 of tax credit per year and may carry over any unused credits for 9 consecutive taxable years following the year the credit originated.

### **How will I know whether my land qualifies as a wetland or riparian zone?**

If you are unsure, please call the Commission office for assistance.

### **Will it cost anything to apply?**

Applicants must pay a fee equal to 3% of the amount of tax credit submitted for approval. The minimum fee is \$100 and the maximum fee is \$1,500.

### **What happens once I apply?**

The Commission will provide the application to the Private Wetlands and Riparian Zone Creation, Restoration, and Conservation Committee. The Committee will consider the application and recommend approval or disapproval. After reviewing the application and Committee comments, the Executive Director will issue a Certificate of Tax Credit Approval to the applicant if he determines the application complies with this program. If the application is for a project rather than

a donation of property interest, the Executive Director shall issue a Certificate of Completion after final inspection of the project.

### **When can tax credits be applied?**

Creation and restoration tax credits are applicable to taxable years beginning January 1, 1996. Conservation tax credits may be applied to taxable years beginning January 1, 2009.

### **Are there any restrictions to collecting tax credit in this program?**

Yes, taxpayers claiming a tax credit under this act may not claim a credit under the Water Resources Conservation and Development Incentives Act of 1985, or any similar act for any costs related to the same project. **Any portion of a project that is a mitigation activity required under state or federal law is not eligible for tax credits.**

## **Specific Questions About Wetland and Riparian Zone Creation and Restoration Tax Credits:**

### **What activities may be claimed for tax credit?**

Specific criteria identified in Section 1305.5 of Title 13 lists activities that may be claimed for tax credit, including procurement of professional services for project development and maintenance, site preparation, establishment of permanent vegetative cover, bank stabilization and erosion control, construction of berms, and water control structure.

### **Are there specific requirements related to project development and operation?**

Yes, Projects must be complete, and functioning within three years of tax credit approval. Taxpayers must maintain records, provide the Commission with notice of project completion, and maintain the project for a minimum of ten years after completion.

### **Are there any design standards requirements?**

Yes, Sections 1303.6, 1303.7, and 1303.8 of Title 13 provides design standards that must be met or exceeded. These include standards for minimizing soil erosion and water degradation during construction, utilization of Best Management Practices, and compliance with all applicable federal, state, and local laws. Structural aspects of the project must be reviewed by a professional engineer prior to filing an application.

### **What happens if the taxpayer fails to complete installation?**

If the taxpayer fails to complete the project as a result of conditions beyond his control, the project may be extended for one year. All credits received must be repaid if the taxpayer fails to complete the project within the specified period under any other circumstances. Other penalties may apply for projects terminated prior to

expiration of minimum life of the project, projects determined to have been terminated without receipt of written notice, or upon sale of the real estate involved in the project.

### **Specific Questions About Conservation Tax Credits:**

#### **How does the program work?**

A person must donate a “qualified real property interest” as that term is defined in the Internal Revenue Code, 26 U.S.C.S. § 170(h)(2). The IRS defines a qualified real property interest as any of the following: the entire interest of the taxpayer other than a qualified mineral interest; a remainder interest; or a restriction (granted in perpetuity) on the use which may be made of the real property. The Commission anticipates that most persons will donate easements.

#### **Who is an eligible donee?**

This term has the same meaning as defined in 26 U.S.C.S. § 170(h)(3). Eligible donees may either units of government or non-governmental organizations.

Eligible governmental units must have sufficient resources and statutory authority to adopt rules to protect and preserve donated lands and to enforce those rules through its own agents. Examples of governmental donees include the Arkansas Natural Heritage Commission and the Arkansas Game and Fish Commission. Non-governmental organizations must possess the authority, capacity, and commitment to enforce the terms of conservation easements and must also have adopted the Land Trust Alliance’s land trust standards and Practices. Nature Conservancy and Ducks Unlimited are among those entities considered eligible donees by the Commission.

#### **What is a qualified appraisal?**

All conservation tax credit applicants must submit a qualified appraisal to the Commission. The appraisal must be made no more than 60 days from the date of donation and includes the appraised fair market value of the donated property, description of property, and information about the appraiser’s background.

#### **What information does the Commission require for application?**

In addition to a completed application, the commission requires applicants to submit a qualified appraisal, ANRC Appraiser Certification Form, ANRC Donee Certification Form, record acceptable to the Commission indicating that the interest conveyed belonged to the donor (i.e. deed, probate documents, etc.), copy of the executed document illustrating that a qualified donee has accepted the property interest, and a check for the application fee.

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