

Regulation 1999-4**Regulation on the Tuition Reimbursement Tax Credit Program, Act 1036 of 1999.**

Pursuant to the authority provided in Ark. Code Ann. § 19-1-208 (1987), Ark. Code Ann. § 26-18-301 (1987) and Ark. Code Ann. § 25-15-201, et seq. (1987) (the Arkansas Administrative Procedures Act), the Director of the Arkansas Department of Finance and Administration and the Commissioner of Revenue for the State of Arkansas do hereby promulgate the following Regulation. This Regulation is to be read in conjunction with the previous Regulations of the Department of Finance and Administration ("Department") and laws of this State.

1) Definitions.

- a) "Accredited institution of post-secondary education" means a school currently accredited by the North Central Association of Schools and Colleges or currently certified by the Arkansas Department of Higher Education.
- b) "Eligible Company" means an entity currently operating in the state of Arkansas that is classified in one of the following:
 - i) Manufacturers classified in Federal Standard Industrial Classification (SIC) codes 20-39, including semiconductor and microelectronic manufacturers;
 - ii) Computer businesses primarily engaged in providing computer programming services; the design and development of prepackaged software; businesses engaged in digital content production and digital preservation; computer processing and data preparation services; information retrieval services; computer and data processing consultants and developers. All businesses in this group must derive at least sixty percent (60%) of their revenue from out of state sales and have no retail sales to the general public;
 - iii) Businesses primarily engaged in commercial physical and biological research as classified by SIC code 8731;
 - iv) Businesses primarily engaged in motion picture production. All businesses in this group must derive at least sixty percent (60%) of their revenue from out of state sales and have no retail sales to the general public;
 - v) Distribution centers with no retail sales to the general public;
 - vi) An office sector business with no retail sales to the general public;
 - vii) A corporate or regional headquarters with no retail sales to the general public and;
 - viii) A trucking/distribution terminal, as classified by SIC code 4231, with no retail sales to the general public.

c) "Computer businesses" grouped into category (ii) above fall generally into the following SIC codes with the additional conditions that they derive at least sixty percent (60%) of their revenues from out of state sales and have no retail sales to the general public: SIC 7371, 7372, 7374, 7375, and 7379.

d) "Corporate or regional headquarters" means the home or center of operations, including research and development, of a national or multinational corporation with no retail sales to the general public.

e) "Digital Content Production" - means companies engaged in the creation of a product that includes acquiring, modeling, and manipulating video imagery, film and animation. These products are created in digital form and are eligible for copyrighting under the copyrighting laws of the United States. Outlets for digital content products may include broadcast television, corporate presentations, cable shows, advertising, video games, movies and themed entertainment outlets. For companies engaged in digital content production to be eligible for benefits under this program, they must derive at least sixty percent (60%) of their revenue from out of state sales and have no retail sales to the general public.

f) "Digital Preservation" - means companies engaged in the transformation, storage, archiving and/or distribution of various forms of media which have been transferred into a digital format. Media transformation into digital content may include film, video or written materials. For companies engaged in digital preservation to be eligible for benefits under this program, they must derive at least sixty percent (60%) of their revenue from out of state sales and have no retail sales to the general public.

g) "Distribution center" means a facility for the reception, storage, or shipping of a business' own products or products which the business wholesales to retail businesses or ships to its own retail outlets. Distribution centers can have no retail sales to the general public.

h) "Full-time permanent employee" - means a person working at an eligible company that has been employed for at least twenty-six (26) consecutive weeks and that works at least thirty (30) hours per week and is subject to the Arkansas individual income tax.

i) "Motion picture production company" means a company that produces any motion picture or portion thereof for: display at theaters, video release, television shows, music videos and special effects, titles and credits all of which are embodied on film or prepared for digital presentation. Motion picture production companies are generally a subset of those companies classified in SIC code 7812 and must derive at least sixty percent (60%) of their revenue from out of state sales and have no retail sales to the general public.

j) "No retail sales to the general public" means no walk-in, "point of sale" service to the general public.

k) "Office sector business" means control centers that influence the environment in which data processing, customer service, credit accounting, telemarketing, claims processing, and other administrative functions that act as production centers are performed. Office sector businesses can have no retail sales to the general public.

l) "Trucking sector business" means a business that is classified within the Federal Standard Industrial Classification (SIC) Code number 423 1. This SIC code includes companies that operate terminal facilities used by highway-type property carrying vehicles and includes terminals which provide maintenance and service for motor vehicles. **It does not include terminals operated by motor freight transportation companies for their own use.**

2) Intent.

It is the intent of the tuition reimbursement tax credit program that the eligible company's arrangement with its employee require the employee to complete the employee's financial arrangement with the school for the payment of the employee's tuition, books, and fees at the beginning of the course and that the company reimburse the employee after the employee completes the course to the satisfaction of the company.

3) Qualifications.

- a) The program allows eligible companies to claim an income tax credit equal to thirty percent (30%) of the cost of tuition, books, and fees reimbursed by a company to a full-time permanent employee of the company after the employee has satisfactorily completed one (1) semester of undergraduate or post-graduate education at an accredited institution of post-secondary education located in Arkansas. Courses taken by an employee must be directly related to the company's business or industry.
- b) The program applies only to reimbursements paid by eligible companies to their employees after July 30, 1999 for courses taken by such employees after July 30, 1999.
- c) The tax credit claimed by the company cannot exceed twenty-five percent (25%) of the company's income tax liability for the tax year in which the credit is taken. Unused credits cannot be carried forward, backward or

refunded. The company's income tax credit must be claimed for the tax year in which reimbursement was actually paid to the employee.

- d) A company cannot claim both the tuition reimbursement tax credit under Act 1036 of 1999 and the training tax credit under Act 1117 of 1997 (the Biotechnology Act) for the same courses.

4) Certification.

To qualify for the benefits of this Program, a company must:

- a) Complete Form AR1036 listing each employees' name for which tuition reimbursement payments were made during the tax year, the total amount reimbursed for tuition, fees, and books for each employee, and the total amount of credit being claimed. Form AR1036 must be fully completed and attached to the eligible company's tax return.
- b) If the eligible company is a partnership, limited liability company, or subchapter-S corporation, additional information is required in Section C of Form AR1036. The total amount of the allowable tuition reimbursement credit will "flow through" to the members of the income tax "pass through" entity (partnership, limited liability company, or subchapter-S corporation). The credit should then be allocated to each member based upon that member's proportionate share of the entity's net income and loss. A member's "proportionate share" is generally equivalent to the member's percentage of ownership in the entity. A duplicate Form AR1036 must be produced for each member and included with each members' tax return.

5) Verification.

Tuition Reimbursement Tax Credit claims, including information relating to Form AR1036, are subject to verification by the Department of Finance and Administration, including verification by audit. The employer is responsible for maintaining records adequate to substantiate the employer's tuition reimbursement tax credit claim. These records must include clear proof that the employees for whom credit is being claimed actually paid for tuition, books and fees and that such employees were actually reimbursed for those expenses by the employer.

6) Additional Information.

Customized Training Incentives Team
Arkansas Department of Economic Development

One State Capitol Mall
Little Rock, AR 72201
(501) 682-7323

Arkansas Department of Finance and Administration
Income Tax Administration
Ledbetter Building
Seventh & Wolfe Streets
P. O. Box 1272
Little Rock, AR 72203
(501) 682-7225 (Individual Income Tax)
(501) 682-4775 (Corporation Income Tax)

Issued this 25th day of October, 1999 in the City of Little Rock, Arkansas.

Dick Barclay Director
Department of Finance and Administration

Tim Leathers, Commissioner of
Revenue and Deputy Director
Department of Finance and
Administration