

Agricultural Commodity Processing Facility Investment Tax Credit Program

Rates, limitations, and other features of the tax credit by tax year

This document is only intended to be a quick reference tool for taxpayers, tax professionals, and other persons interested in the tax credit rate, limitations, and other selected features applicable to investments made in a particular tax year. The tax year is that of the taxpayer making the investment (not the qualified business's tax year). For complete details, see N.D.C.C. ch. 57-38.6.

How to use this chart: Go to the column for the tax year in which the qualified investment was made. Then look down that column to see the rate, limitations, and other features that apply to that investment and related tax credit.

| Provision | Tax year in which investment was made | | | | | | | | | | | |
|--|---------------------------------------|--------------|--------------|--------------|--|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
| Eligible taxpayer ^{1, 2} | Individual, estate, or trust | | | | Individual, estate, trust, partnership, corporation ("C" or "S"), or LLC | | | | | | | |
| Qualified investment ³ | Cash | Cash | Cash | Cash | Cash or Real estate | Cash or Real estate | Cash or Real estate | Cash or Real estate | Cash or Real estate | Cash or Real estate | Cash or Real estate | Cash or Real estate |
| Credit rate | 30% | 30% | 30% | 30% | 30% | 30% | 30% | 30% | 30% | 30% | 30% | 30% |
| Number of carryover years for unused credit ⁴ <i>(Last tax year in which an unused credit carryover may be used is shown in parentheses)</i> | 15 (2016) | 15 (2017) | 15 (2018) | 15 (2019) | 5 (2010) | 5 (2011) | 10 (2017) | 10 (2018) | 10 (2019) | 10 (2020) | 10 (2021) | 10 (2022) |
| Maximum investment ⁵ | \$20,000 | \$20,000 | \$20,000 | \$20,000 | \$166,667 | \$166,667 | | | | | | |
| Maximum allowable credit ⁶ | \$6,000 | \$6,000 | \$6,000 | \$6,000 | \$50,000 | \$50,000 | | | | | | |
| Limit on amount of allowable credit that may be used in any tax year ⁷ | 50% | 50% | 50% | 50% | 50% | 50% | | | | | | |
| Limit on amount of allowable credit that may be used in any tax year ⁸ | | | | | | | \$50,000 | \$50,000 | \$50,000 | \$50,000 | \$50,000 | \$50,000 |
| Limit on amount of allowable credit that may be used in any tax year based on tax liability (before credits) ⁹ | 50% | 50% | 50% | 50% | 50% | 50% | | | | | | |
| Cumulative limit on total tax credits allowed under Program to a taxpayer for all tax years ¹⁰ | | | | | \$250,000 | | | | | | | |

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How to use this chart: Go to the column for the tax year in which the qualified investment was made. Then look down that column to see the rate, limitations, and other features that apply to that investment and related tax credit.

| Provision | Tax year in which investment was made | | | | | | | | | | | | | |
|--|--|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|--|------|------|--|--|
| | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 | 2024 | | |
| Eligible taxpayer ^{1, 2} | Individual, estate, trust, partnership, corporation ("C" or "S"), or LLC | | | | | | | | | | | | | |
| Qualified investment ³ | Cash or Real estate | Cash or Real estate | Cash or Real estate | Cash or Real estate | Cash or Real estate | Cash or Real estate | Cash or Real estate | Cash or Real estate | Cash or Real estate | Tax years after 2020 are subject to legislative change and are therefore omitted until after the next legislative session in 2021. If there is no legislative change in 2021, the provisions in effect for 2007 through 2020 will apply. | | | | |
| Credit rate | 30% | 30% | 30% | 30% | 30% | 30% | 30% | 30% | 30% | | | | | |
| Number of carryover years for unused credit ⁴ <i>(Last tax year in which an unused credit carryover may be used is shown in parentheses)</i> | 10 (2023) | 10 (2024) | 10 (2025) | 10 (2026) | 10 (2027) | 10 (2028) | 10 (2027) | 10 (2028) | | | | | | |
| Maximum investment ⁵ | | | | | | | | | | | | | | |
| Maximum allowable credit ⁶ | | | | | | | | | | | | | | |
| Limit on amount of allowable credit that may be used in any tax year ⁷ | | | | | | | | | | | | | | |
| Limit on amount of allowable credit that may be used in any tax year ⁸ | \$50,000 | \$50,000 | \$50,000 | \$50,000 | \$50,000 | \$50,000 | \$50,000 | \$50,000 | | | | | | |
| Limit on amount of allowable credit that may be used in any tax year based on tax liability (before credits) ⁹ | | | | | | | | | | | | | | |
| Cumulative limit on total tax credits allowed under Program to a taxpayer for all tax years ¹⁰ | \$250,000 | | | | | | | | | | | | | |

Notes

- ¹ For tax years beginning before January 1, 2005, an eligible taxpayer was limited to an individual, estate, or trust. Other types of entities, such as a corporation, could make an investment in the business but the investment was not a qualified investment and no credit was allowed.
- ² For tax years beginning on or after January 1, 2005, an eligible taxpayer includes all entity types. If taxpayer is a passthrough entity—partnership, S corporation, or limited liability company treated like a partnership or S corporation—the credit is calculated at the passthrough entity level (without regard to the annual credit usage limits) and passed through to the owners based on their respective ownership interests.
- An eligible taxpayer *does not* include (1) government entity, (2) tax-exempt organization, or (3) angel fund certified under N.D.C.C. § 57-38-01.26 *after June 30, 2017*.
- If taxpayer is an angel fund certified under N.D.C.C. § 57-38-01.26 *before July 1, 2017*, it is treated like a passthrough entity, and the credit must be passed through to the angel fund's members. If the angel fund members also qualified for the angel fund tax credit for investing in the angel fund, they must choose which of the two tax credits to claim; they may not claim both types of tax credits.
- ³ For tax years beginning on or after January 1, 2007, a qualified investment includes the transfer of a fee simple interest in North Dakota real estate, subject to a number of conditions and reporting requirements.
- ⁴ The unused credit carryover provision does not apply at the passthrough entity level, but applies at the owner level, provided the owner is not another passthrough entity.
- ⁵ For tax years beginning before January 1, 2007, no credit is allowed for investments made during the tax year in excess of the maximum investment amount shown in table. This limit applies per investor. For married individuals filing jointly, this limit applies per spouse.
- ⁶ For investments made in tax years beginning before January 1, 2007, the allowable credit equals the total qualified investments made during the tax year multiplied by the credit rate, not to exceed the maximum allowable credit shown in the table. This limit applies per investor. For married individuals filing jointly, this limit applies per spouse.
- ⁷ For investments made in tax years beginning before January 1, 2007, multiply the allowable credit on investments made during the tax year by 50 percent. The result is the limit on the amount of the allowable credit that may be used in the year of investment or in any carryover year. For example, if \$10,000 is invested in the 2006 tax year, the allowable credit is \$3,000 ($\$10,000 \times 30\%$), of which no more than \$1,500 ($\$3,000 \times 50\%$) may be used in 2006 or any of the five carryover years. This limitation does not apply at the passthrough entity level but applies at the owner level, provided the owner is not another passthrough entity.
- ⁸ For investments made in tax years beginning on or after January 1, 2007, the allowable credit equals the total qualified investments made during the tax year multiplied by the credit rate, of which no more than \$50,000 may be used to offset the income tax liability in any tax year. The \$50,000 annual credit limit does not apply to a passthrough entity. Also see Note 10 for a lifetime limit on the allowable credit.
- ⁹ For investments made in tax years beginning before January 1, 2007, the portion of the allowable credit that may be used in a tax year may not offset more than 50 percent of the taxpayer's tax liability (before credits). For example, if \$20,000 is invested in the 2006 tax year, the allowable credit is \$6,000 ($\$20,000 \times 30\%$), of which no more than \$3,000 may be used in any tax year. If the taxpayer's tax liability (before credits) is \$2,000, only \$1,000 of the total allowable credit may be used to reduce the tax liability. The unused credit of \$5,000 ($\$6,000 - \$1,000$) may be carried over for up to five tax years.
- ¹⁰ This limitation applies to investments made on or after January 1, 2005, and applies to each taxpayer. A passthrough entity is considered to be a taxpayer for purposes of this limitation; therefore, in the case of passthrough entity, this lifetime limitation applies at both the passthrough entity level and at the passthrough entity owner level.

Example 1: Assume a partnership makes a qualifying investment of \$450,000 in each of the tax years 2015 and 2016. The calculated credit for each year is \$135,000. The partnership did not make any other qualifying investments. Due to the \$250,000 lifetime credit limitation, the entire \$135,000 credit in 2015 is allowed, but only \$115,000 of the credit in 2016 is allowed (the remaining \$20,000 of the 2016 credit is not allowed in any tax year). The allowable credit for each year must be passed through to the partners based on their respective interests in the partnership.

Example 2: Assume two individuals hold an interest in three different partnerships. All income, deduction, and credit items are distributed equally between the partners. In 2015, each partnership makes a qualifying investment of \$1,000,000. The calculated credit for each partnership is \$300,000. The partnerships did not make any other qualifying investments. Due to the \$250,000 lifetime credit limitation, each partnership's allowable credit is limited to \$250,000. Fifty percent of each partnership's allowable credit of \$250,000 is distributable to each of its two partners. Therefore, each partner receives \$375,000 of credits from the partnerships ($\$125,000 \times 3$). Due to the \$250,000 lifetime credit limit, each partner's allowable credit is limited to \$250,000 (the remaining \$125,000 of credits are not allowed in any tax year).