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Arkansas Public Roads Improvements Tax Credit Program Rule Summary

The Arkansas Economic Development Commission (AEDC) has promulgated an amended administrative rule for the Public Roads Improvements Tax Credit Program to conform the rule to changes made by Act 628 of 2021.

Background

Act 1347 of 1999 created the Public Roads Improvements Credit Act that established the Public Roads Tax Credit Program. The program provides a tax credit to a taxpayer that contributes to the Public Roads Incentive Fund. The tax credit is equal to 33% of the taxpayer's contribution. The Public Roads Incentive Fund may be used to fund approved public roads projects. Governing bodies may apply to AEDC for funding assistance for capital improvement projects for public roads. Act 628 of 2021 amended the existing program. Changes made to the program were retroactively effective for tax years on or after January 1, 2020.

Key Points

The final rule includes the following changes:

- Increases the amount of tax credits a taxpayer may use of offset their tax liability in any 1 year from 50% to 100%;
- Extends the carry forward period for unused tax credits from 3 years to 10 years; and
- Clarifies definitions and makes various technical corrections to the rule.

Effective Date

The amended rule for the Arkansas Public Roads Improvements Tax Credit Program is effective on November 29, 2021.

- L. "Taxpayer" includes any individual, fiduciary, or corporation subject to Arkansas State Income Tax.

III. To Contribute to the Public Roads Incentive Fund

A. Contributions

1. Eligible contributors include any taxpayer subject to Arkansas state income tax that contributes to the Public Roads Incentive Fund of the Arkansas Economic Development Commission.
2. The Public Roads Incentive Fund shall consist of contributions made by taxpayers for public roads projects approved by the director, and any other funds as are designated or deposited to the fund by law.
3. Each taxpayer that contributes to the Public Roads Incentive Fund may make a general contribution or may designate a project for which the contribution is earmarked. When donations are made for dedicated projects, a separate account will be established.
4. To contribute to the Public Roads Incentive Fund, the taxpayer must send a completed application and a contribution for the Public Roads Incentive Fund to the Arkansas Economic Development Commission. An application can be obtained by contacting the AEDC Incentives Manager.
5. The contribution will be transmitted to the Treasurer of the State for deposit into the Public Roads Incentive Fund.

B. Applicants

1. Governing authorities may apply to the director of AEDC for funding assistance for capital improvement projects for public roads. as provided by Act 1347 of 1999. The director is authorized to approve capital improvements for funding assistance upon a finding that a project is in the public interest and that there are sufficient dedicated project funds, when combined with the requested funds from the Public Roads Incentive Fund, to complete the project.
2. Applicants must provide documentation that there are sufficient dedicated project funds available, when combined with the amount requested from the Public Roads Incentive Fund, to complete the improvement project.
3. The application, endorsement resolution, and project plan must be sent to AEDC for review. An application may be obtained by contacting the AEDC Incentives Manager.

4. The application must include:

- (a) A city or county endorsement resolution or a copy of a minute order from the Arkansas State Highway Commission.
- (b) A completed application with a project plan.
- (c) Documentation of sufficient dedicated project funds to complete the improvement project.

IV. Powers and Duties of the Arkansas Economic Development Commission

- A. The director of the Arkansas Economic Development Commission will determine whether or not the project is in the public interest and whether or not there are sufficient dedicated project funds, when combined with the requested funds from the Public Roads Incentive Fund, to complete the project. If the director determines that the project is in the public interest and that sufficient funding is available, the governing authority will be informed and a sub-account will be established for the project.
- B. Any project that is submitted to AEDC for approval will have to be fully funded before AEDC will release of funds for the project.
- C. Any contributions which remain in a project account after a project is completed or terminated will be held and applied to other public roads projects approved by the director.
- D. A separate account will be established for each project, and contributions specified for a project shall be applied to that account. The director is authorized to assist the governing authority in obtaining assistance from any other department of state government. When sufficient funds are accumulated for a particular project, the director will authorize the release of funds for the project.

V. Administration of Benefits

Eligible taxpayers will be entitled to a state income tax credit that may be applied in any tax year after January 1, 1999.

The credit shall be determined in the following manner:

- A. The credit is limited to an amount not to exceed 33% of the taxpayer's contribution;
- B. In any one (1) tax year, the credit allowed shall not exceed 100% of the taxpayer's net Arkansas state income tax liability; and
- C. Any credit over 100% of the taxpayer's net Arkansas state income tax liability for any one (1) tax year may be carried forward and applied against Arkansas state income tax for the next-succeeding tax year (subject to the same terms as in "B.")

above) and annually thereafter for a total period of ten(10) years next-succeeding the year in which the credit arose or until the credit is exhausted, whichever occurs first.

- D. The Arkansas Economic Development Commission will issue a letter certifying the amount contributed to the Public Roads Incentive Fund. This certification must be attached to the taxpayers' income tax return in order to claim the credit.