

**RULE 2024-3**  
**ACT 881 OF 2023 – IMPLEMENTATION RULE**

Pursuant to the authority granted by Act 881 of 2023, and in compliance with the requirements thereof, the secretary of the Arkansas Department of Finance and Administration hereby promulgates the following rule.

**Waterways Investment Income Tax Credit**

This rule shall be cited as the “Arkansas Waterways Investment Tax Credit Rule.”

1. DEFINITIONS – As used in this rule:

- a. “Eligible costs” means costs of:
  - i. Construction of a new waterway facility;
  - ii. Improvement of an existing waterway facility or property;
  - iii. Capital facility rehabilitation of an existing waterway facility or property;
  - iv. Expansion of an existing waterway facility or property; or
  - v. Construction or improvement of rail or road access to a waterway facility.
- b. “Office” means the Office of Tax Credits/Special Refunds of the Department of Finance and Administration.
- c. “Secretary” means the Secretary of the Arkansas Department of Commerce.

2. TAX CREDIT - An income tax credit is allowed against the Arkansas income tax due from a taxpayer for eligible costs incurred by a taxpayer to make capital improvements to a waterway facility or property related to water transportation in Arkansas.

3. APPLICATION – A taxpayer may submit an application for a Waterways Investment Income Tax Credit to the Office of Tax Credits/Special Refunds of the Department of Finance and Administration at 1816 W. 7th Street (Suite 2370), Little Rock, Arkansas, 72203.

- a. The taxpayer’s application shall be on the form required by the Office.
- b. The taxpayer’s application shall include documentation of eligible costs incurred that:
  - i. The taxpayer’s capital investment is in a facility or property related to water transportation in Arkansas;
  - ii. The taxpayer’s capital investment will provide an economic benefit to the state;  
and
  - iii. The capital investment was made between January 1, 2024 and December 31, 2025.
- c. The taxpayer’s documentation of eligible costs shall include construction contracts, purchase invoices, and receipts.

4. COST-BENEFIT ANALYSIS – The Office shall forward the application and documentation provided by the taxpayer to the Secretary of the Arkansas Department of Commerce.
  - a. The Secretary shall review the documentation provided by the taxpayer.
  - b. If the Secretary determines that the taxpayer’s capital investment meets the eligibility requirements of Rule (I)(3)(b) of these Rules and will provide an economic benefit to the state that will be equal to or greater than the amount of the tax credit allowed, the Secretary shall issue a positive cost-benefit analysis and provide a copy to the taxpayer and the Office.
  - c. If the Secretary is unable to issue a positive cost-benefit analysis, the Secretary shall notify the taxpayer and the Office, who shall close the taxpayer’s application.
  
5. ISSUANCE OF TAX CREDIT – The Office shall issue tax credits on a first-come, first-served basis, based on the date of receipt of the application by the Office.
  
6. LIMITATIONS – Income tax credits for eligible costs related to a waterway facility or property are allowed only if the eligible costs are incurred on or after January 1, 2024 and on or before December 31, 2025.
  - a. The total cumulative tax credits awarded in a calendar year for all taxpayers shall not exceed two million, five hundred thousand dollars (\$2,500,000.00).
  - b. A taxpayer may not claim an income tax credit in any one tax year in excess of ten percent (10%) of the total tax credit for which the taxpayer is eligible.
  - c. The maximum tax credit allowed by a taxpayer for eligible costs related to a waterway facility or property is three million dollars (\$3,000,000.00).
  - d. Unused tax credits may be carried forward for nine (9) consecutive years following the tax year in which the credit was earned.
  - e. A taxpayer who has received funds under the Arkansas Port, Intermodal, and Waterway Development Grant Program is not eligible for a Waterways Investment Income Tax Credit.
  
7. REVIEW – The Department of Finance and Administration shall review Waterways Investment Income Tax Credits to verify eligibility for the credit. The Department may disallow an income tax credit claimed in excess of the limitations described in Rule (I)(6) of these Rules or for which a taxpayer did not meet the eligibility requirements of Rule (I)(3)(b) of these Rules.

Issued this \_\_\_\_\_ day of November in the City of Little Rock, Pulaski County, Arkansas.

\_\_\_\_\_  
Jim Hudson, Secretary  
Department of Finance and Administration