Automation Tax Credit (ATC)
Frequently Asked Questions (FAQs)

Q: ***What is the purpose of the ATC?***
A: A taxpayer is allowed an income tax credit for the purchase or capital lease of machinery and equipment to automate a manufacturing or animal agricultural process in North Dakota.

Q: ***Where can I find the century code regarding ATC?***
A: The North Dakota Century Code pertaining to ATC is N.D.C.C. § 57-38-01.41 and can be found at the following link: North Dakota Century Code.

Q: ***What changed within the Automation Tax Credit process following the 2023 Legislative process?***
A: There is now set aside allocations for first-time claimants and animal agricultural processing. See N.D.C.C. 57-38-01.41. for further detail. Additionally, the allocation was increased from $2M per biennium to $6M per biennium. There is no longer a sunset clause associated with this program.

Q: ***How much funding can I receive per year?***
A: The tax credit is equal to up to 15% of the cost of the qualifying machinery and equipment. For a capital lease, the credit would be equal to up to 15% of the fair market value of the machinery and equipment at the inception of the lease. Please note that if the approved requests for tax credits is greater than the $3,000,000 per year set aside for the program, all requests will be prorated.

Q: ***How does a company know if they are eligible?***
A: To qualify, the business must be certified as a primary sector business, and the machinery and equipment must be approved by the Department of Commerce Division of Economic Development & Finance. If you are unsure of your primary sector certification status, you can email ndedf@nd.gov.

Q: ***What are the qualifications for the ATC?***
A: To be eligible for the credit, the following requirements must be met:

- The business must be certified as a "primary sector" business:
    - A primary sector business means a business certified by the Department of Commerce which, through the employment of knowledge or labor, adds value to a product, process or service that results in the creation of new wealth.
- The business must purchase manufacturing machinery and equipment for the purpose of automating manufacturing or animal agricultural processes in North Dakota, which is approved by the Department of Commerce. "Manufacturing machinery and equipment for the purpose of automating manufacturing processes" means new or used automation and

robotic equipment. "Animal agricultural machinery and equipment" means new or used automation and robotic equipment used to upgrade or advance an animal agricultural process.

- The automation of the manufacturing or animal agriculture processes must improve job quality or increase output, which is reported to the Office of State Tax Commissioner.
- Expenditures approved for the automation income tax credit may not be used in the calculation of any other income tax deduction or credit. Expenditures approved for the automation income tax credit may not be used in the calculation of any other income tax deduction or credit.

Q: ***What does it mean to improve job quality?***

A: A 5% increase in average wages or a 5% improvement in workplace safety as documented through participation in Workforce Safety and Insurance safety incentive programs demonstrates improved job quality.

Q: ***What does it mean to improve output?***

A: Improved output means no less than a 5% increase in output or 5% increase in the number of units produced per automated line per time period.

Q: ***If I have requested a tax deduction or credit on the same machinery, can I also apply for the ATC?***

A: That depends. Generally, the “no double-dipping” language in the ATC applies only to other North Dakota specific income tax incentives claimed on the same equipment. It does not apply to ND sales tax incentives, federal incentives, including Section 179 expensing, bonus depreciation, or the federal R&D tax credit. Use of those federal provisions does not disqualify equipment from eligibility for the ND ATC.

Where a taxpayer is also eligible for another ND income tax incentive (e.g., the New and Expanding Business Income Tax Exemption or the ND R&D credit), they may still apply for both, but the same equipment cost cannot be used to calculate two ND income tax benefits. In practice, the ATC is often more beneficial, and the other ND incentive is adjusted to exclude the ATC-eligible equipment.

As a result, the ATC is still relevant and usable for most automation investments, even when federal depreciation or credits are claimed.

On the other hand, taxpayers choosing to pursue other ND income tax deductions or credits instead of the ATC for the approved equipment must withdraw their automation income tax application before January 31. (For example, an application for equipment purchased in 2025 must be withdrawn before January 31, 2026.) If an application is not withdrawn, the equipment purchases resulting in a credit will be ineligible for any other income tax incentives. (Please note that accessing the automation credit does not prohibit taxpayers from also applying for sales tax exemptions.)

**Please note this is NOT formal tax advice and there can be various scenarios, therefore, it is recommended that you speak with your tax professional before applying for the ATC.

Q: ***Can the ATC be used when an item (or a portion of it) is purchased with a grant?***

A: For the ATC, which is based on the purchase price of an item, there may be consideration for whether a grant (or rebate or any other related receipt) should be a reduction to the purchase price. That may depend on the circumstances of what type of grant, etc. it is. Also note that federal and state grant programs often include provisions which cover this. Please indicate on your application any portion of the equipment purchased with outside funds or is subject of an application for reimbursement by another program and not covered by the company directly.

Q: ***Are companies located outside of North Dakota eligible to apply?***

A: The operating facility must be located in North Dakota and be registered with the North Dakota Secretary of State office to do business in North Dakota. The business must also be primary sector certified.

Q: ***What is the definition of manufacturing process?***

A: Must relate to the actual value stream which changes the fit, form or function of a product (i.e., value adding steps). This does not include maintenance or material handling outside of the normal production process.

Q: ***What is the definition of animal agricultural process?***

A: The breeding, raising, harvesting, or processing of animals for producing meat, dairy, or egg products.

Q: ***How are the ATC applications considered for approval?***

A: Once the completed application is received, it is reviewed by a team of reviewers and the economic development director prior to submittal to the North Dakota Tax Department.

Q: ***How much funding is available for the ATC?***

A: Currently $3,000,000 has been aside each year for the ATC by the legislature.

APPLICATION PROCESS

Q: ***The entire installation project ended this year but started in the previous year. What cost for which year?***

A: The year of eligibility is when the company took ownership of the equipment. For a project straddling two calendar years, one application would be required for each year if ownership of various pieces of equipment were taken in each year. If, however, the equipment was received in one calendar year, but payments were made over two calendar years, those payments (both years) would still qualify in the year the title was received for the equipment.

Q: ***How do I apply for ATC?***

A: You must complete the online application at https://www.commerce.nd.gov/economic-development-finance/finance-and-incentives/tax-incentives by 5:00 pm (CT) January 31.

Q: ***What is the mailbox rule for deadline?***

A: Applications must be submitted via the online portal noted above by 5:00 pm (CT) January 31. Special accommodations may be considered prior to the application deadline.

Q: ***What is the email deadline?***

A: Applications must be submitted via the online portal noted above by 5:00 pm (CT) January 31. Special accommodations may be considered prior to the application deadline.

Q: ***What documentation is required to be included with the application?***

A: You must include **each** of the following for each line item:

1. Invoice (itemized vendor invoice)
2. Proof of payment (vendor receipt)
3. Proof of delivery or ownership

****All documentation must come from a third party.***

Q: ***What is a qualifying invoice?***

A: The invoice must be from the supplier/vendor and must show details of all items purchased.

Q: ***What type of Proof of Payment do I need to provide?***

A: A receipt or email/letter from supplier verifying they received payment in full.

Q: ***What type of Proof of Delivery or ownership documents do I need to provide?***

A: A delivery is considered to be made on the date on which **title to the property transfers to the taxpayer**. If no title transfer is applicable, utilize the **delivery date** (provide proof of title transfer or equipment delivery). The following documents are acceptable means of proving delivery date:

- Shipping documents that show actual delivery date
- Proof of payment for **delivery/installation**
- Title transfer
- Other documents showing delivery during applicable calendar year
- If FOB (freight on board) is identified, include a copy

Q: ***What do I include on the Supplement A?***

A: Include the following:

- Describe the current manufacturing or animal agricultural process and how each purchase will automate the process and impact job quality or output.
- Describe in detail each new or used automation or robotic equipment acquired for the purpose of automating manufacturing processes.
- Include invoices or other documentation evidencing the item purchased, the delivery date and receipt or proof of purchase.

Q: ***Do I have to create a line item for every item purchased?***

A: No, you can create one line item per invoice. **Do not** combine invoices within the same line item.

Q: ***When can a taxpayer decide to withdraw their ATC application to pursue other incenvites?***

A: You must withdraw an application prior to January 31 or the application is locked in.

Q: ***What if I submit an incomplete application?***

A: Incomplete applications will be deemed ineligible and not processed**.** If you question if your application was submitted, email ndedf@nd.gov.

Applications needing additional clarification will be granted **a single seven (7) business-day window** to provide the information necessary for reconsideration. If the requested information is not provided within that timeframe, the affected invoice line item(s) will be denied.

Q: ***What type of certification is required?***
A: Must be primary sector certified at time of **taking ownership** of equipment, as well as **application submittal**.

Q: ***What is the process after I have submitted my application?***
A: Upon submittal you will receive an email within 24 hours that your application was received. Watch your email for further notification if your application has progressed to the next stage. You may not receive additional communication until after the application deadline.

The application process follows:

1. Final application, with supporting documentation, is submitted by January 31st deadline.
2. Application is reviewed by Dept. of Commerce.
3. Application is reviewed by ND Tax Department.
4. Approval letter and Supplement A document is sent to applicant from Commerce outlining approval amounts for line items.
5. Final ATC Award amount letter will be issued by the ND Tax Department (prior to tax filing deadline).

Q: ***How will I know if I've been awarded ATC funds?***
A: Once your application has been reviewed by the Dept. of Commerce it is reviewed by the Tax Department. If your application is denied, you will receive an email notification from the Department of Commerce. If your application is approved, you will receive an email outlining what equipment has been approved. Additional information regarding the final award amount will come from the North Dakota Tax Department.

Q: ***When will I receive notification of the amount of my tax credit?***
A: Once all applications have been through the approval process, the Tax Department calculates the total awards approved. If the awards exceed the designated $3,000,000, the awards will be prorated. Communication from the Tax Department with final award amount typically is typically dispersed in March.

QUALIFYING EQUIPMENT/COSTS

Q: ***What are qualifying purchases?***
A: The qualifying purchase cost means the full purchase price of the machinery or equipment item itself and any items, such as computer software, that are necessary to the operation of the machinery or equipment item. If the transaction includes a trade-in of other property, the purchase costs mean the otherwise eligible cost of the acquired machinery or equipment item less the trade-in value of the other property. To calculate the qualifying purchase costs, subtract non-qualifying costs (described below) from the invoice amounts.

Qualifying purchases also include equipment acquired under a capital lease and only for the taxable year in which the lease is executed. A capital lease is a lease which meets generally accepted accounting principles. The qualifying cost of the equipment acquired under a capital lease is the fair market value of the equipment at the inception of the lease rather than the individual lease payments as they are made over the years. For equipment acquired under a capital lease, also include a copy of the lease agreement.

Q: ***What are non-qualifying costs?***
A: Costs not identified above are non-qualifying. This could include: delivery, training, assembly, installation costs, interest on financing, training, sales tax and other costs incidental to the machinery or equipment purchase are considered the non-qualifying portion of your invoice costs and are <u>not</u> eligible for the credit. <u>Optional</u> warranties are also not eligible for the credit, but taxpayers do not need to subtract the cost of warranties automatically provided as part of the product purchase.

Q: ***Are molds used in manufacturing process eligible?***
A: Molds are eligible, but it can't be for a new product. Applications are reviewed on a case-by-case basis.

Q: ***If equipment increases capacity along with increase in automation, is that eligible?***
A: Yes. Increase in capacity alone is not enough, but it does not disqualify it as long as a manual process is being automated.

Q: ***How much of an increase in automation must there be?***
A: Automation does not need to be the primary reason, however, there does need to be a tangible increase in automation.

Q: ***Are replacement/spare parts eligible?***
A: No

Q: ***Does replacement equipment that produces more or better, or more flexibility qualify?***
A: No, unless a formerly manual process is being automated.

Q: ***Does sales tax qualify?***
A: No.

Q: ***Does installation qualify?***
A: Resources (3rd party labor, materials, etc.) to complete the assembly of an approved system would qualify, however, resources for the installation of that equipment does not qualify.

- Equipment to building installation costs would not qualify (i.e., hooking equipment into the main panel).
- Equipment to other equipment (not in the current ATC application) in a series installation cost will be reviewed on a case-by-case basis.

Q: ***Does assembly qualify?***
A: Resources (3rd party labor, materials, etc.) to complete the assembly of an approved system would qualify, however, resources for the installation of that equipment does not qualify.

- Equipment to building installation costs would not qualify.
- Equipment to other equipment (not in the current ATC application) in a series installation cost will be reviewed on a case-by-case basis.

Q: ***Does fabrication (not mere assembly) qualify?***
A: Fabrication may be eligible; however, applications are reviewed on a case-by-case basis.

Q: ***Do costs paid to a third-party for site prep, wiring, hook up, etc. qualify?***
A: Resources (3rd party labor, materials, etc.) to complete the assembly of an approved system would qualify, however, resources for the installation of that equipment does not qualify.

- Equipment to building installation costs would not qualify.
- Equipment to other equipment (not in the current ATC application) in a series installation cost will be reviewed on a case-by-case basis.

Q: ***Do internal resources spent on fabrication, site prep, etc. qualify?***
A: Material costs may qualify; however, internal labor costs would not qualify.

Q: ***Are estimates ok to use in the application?***
A: No, you must submit the vendor invoice.

Q: ***If the process is entirely new (new product line), does that qualify?***
A: Generally, no. Look to things that have previously been done. For example, if the new product line is a replacement (with new automation components) of an existing line; it could be eligible. In which case, the original manufacturing process would be the baseline. If it's an entirely new product line, there would be no past process to act as a baseline. New and expanding business sales and/or income tax exemption may be more appropriate. Similar to mere expansion.

Previously outsourced processes may qualify (whether to applicant company's out-of-state facility or another 3rd party company); determined on a case-by-case basis.

Q: ***If I was previously sending a product out for work, but by purchasing new equipment will now be able to do the work in house; will this qualify for the ATC?***
A: Yes, generally. If this is an existing product/process it could qualify. If this is a new product/process, it would NOT qualify. Product/process being insourced must come from out-of-state.

Q: ***Does equipment used for testing products produced qualify?***
A: Depends on the totality of the manufacturing process and when the manufacturing process is complete. Generally quality/qc equipment would not qualify, however, if it's part of the value stream or inspection and/or quality tracking is a customer requirement then reviewer may qualify the equipment.

Q: ***Does equipment used for stacking and/or moving products qualify?***
A: Depends on the totality of the manufacturing process (i.e., when the manufacturing process is complete). Specialized automated equipment used to deliver materials to or from the value stream or within the value stream may qualify. However, general material handling equipment such as forklifts or skidsteers, overhead lifts or conveyors are not. Lift assist devices do not qualify unless there is a tangible element of machine intelligence.

Q: ***Does equipment used for both manufacturing and inventory handling qualify?***
A: Yes. Equipment need not be exclusively used for qualifying activity.

Q: ***Does equipment needed to keep up with capacity of new process qualify?***
A: Generally, no. Scope must remain with the specific automating process.

Q: ***If an automated process is made more automated does that qualify?***
A: Depends what is meant by "more automated". Something manual (more than negligible) must be removed. If so, then it might be considered more automated and allowable in that respect. The new, more automated process must include an element of tangible machine intelligence. This is determined on a case-by-case basis.

Q: ***Are laptops and computers eligible?***
A: Generally, no, unless it is required to allow the automated process to operate. Should be dedicated to that specific automation equipment.

Q: ***Are software/service subscriptions eligible?***
A: Yes, if unique for use in operating the qualifying equipment. Nesting software and digital twin qualifies if tied to an eligible machine purchase. Otherwise considered on a case-by-case basis. Software utilized to control and further automate existing equipment may qualify. Considered on a case-by-case basis. If it is necessary for the equipment to operate, then, one year of the software is allowed.

Q: ***Are office processes, maintenance, etc. eligible?***
A: No, the intent of the program is to automate the manufacturing value stream.

Q: ***Does elimination of steps qualify vs. automation of steps?***
A: Yes, can view the elimination of manual steps in the same light as automation of the process (i.e., if a part was processed on one machine, transferred to another machine, but now can be completed on one machine, it would qualify because we eliminated the transfer step).

Q: ***If capital leases qualify, do operating leases qualify as well?***
A: No. "Operating" leases do not qualify. In the world of leasing and ownership of property, "capital" leases are much different than an operating lease. In general, an operating lease is merely a payment to use for term, month to month or longer. It does not convey any of the elements of ownership. For all purposes, ownership of the property remains with the lessor throughout. For accounting purposes, property under a capital lease is "capitalized" by the lessee, meaning that lessee owns the property, includes the asset on its balance sheet as if it owns it, and gets to take the depreciation for it. The common type of capital lease is a "finance" lease, which is basically the sale / transfer of property but with the seller or third party (like a bank) providing the financing of the sale, with ownership ultimately fully passing at the end of the lease.

AMOUNT OF PURCHASE

Q: ***Do bank fees when dealing with foreign currency qualify?***
A: No, these fees are ineligible.

Q: ***When dealing with foreign currency, how do we translate to US Dollars?***
A: Use amounts actually paid from bank, etc. The applicant must provide conversions to US dollars on all documentation provided.

Q: ***Is buyer's premium and other similar commissions eligible?***
A: No, this is ineligible.

Q: ***Is traded in equipment eligible?***
A: Yes, it may be considered similar to currency.