

1 **INCOME TAX CREDIT MODIFICATIONS**

2 2017 GENERAL SESSION

3 STATE OF UTAH

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5 **LONG TITLE**

6 **General Description:**

7 This bill amends the individual income tax credit for certain residential renewable  
8 energy systems.

9 **Highlighted Provisions:**

10 This bill:

- 11 ▶ phases out the individual income tax credit for certain residential renewable energy
- 12 systems; and
- 13 ▶ amends the maximum individual income tax credit for certain residential renewable
- 14 energy systems.

15 **Money Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 This bill provides a special effective date.

19 This bill provides revisor instructions.

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **59-10-1014**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

23 **Utah Code Sections Affected by Revisor Instructions:**

24 **59-10-1014**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

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26 *Be it enacted by the Legislature of the state of Utah:*

27 Section 1. Section **59-10-1014** is amended to read:

28 **59-10-1014. Nonrefundable renewable energy systems tax credits -- Definitions --**

29 **Certification -- Rulemaking authority.**

30 (1) As used in this section:

31 (a) (i) "Active solar system" means a system of equipment that is capable of:

32 (A) collecting and converting incident solar radiation into thermal, mechanical, or

33 electrical energy; and

34 (B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate  
35 apparatus to storage or to the point of use.

36 (ii) "Active solar system" includes water heating, space heating or cooling, and  
37 electrical or mechanical energy generation.

38 (b) "Biomass system" means a system of apparatus and equipment for use in:

39 (i) converting material into biomass energy, as defined in Section 59-12-102; and

40 (ii) transporting the biomass energy by separate apparatus to the point of use or storage.

41 (c) "Direct use geothermal system" means a system of apparatus and equipment that  
42 enables the direct use of geothermal energy to meet energy needs, including heating a building,  
43 an industrial process, and aquaculture.

44 (d) "Geothermal electricity" means energy that is:

45 (i) contained in heat that continuously flows outward from the earth; and

46 (ii) used as a sole source of energy to produce electricity.

47 (e) "Geothermal energy" means energy generated by heat that is contained in the earth.

48 (f) "Geothermal heat pump system" means a system of apparatus and equipment that:

49 (i) enables the use of thermal properties contained in the earth at temperatures well  
50 below 100 degrees Fahrenheit; and

51 (ii) helps meet heating and cooling needs of a structure.

52 (g) "Hydroenergy system" means a system of apparatus and equipment that is capable  
53 of:

54 (i) intercepting and converting kinetic water energy into electrical or mechanical  
55 energy; and

56 (ii) transferring this form of energy by separate apparatus to the point of use or storage.

57 (h) "Office" means the Office of Energy Development created in Section 63M-4-401.

58 (i) (i) "Passive solar system" means a direct thermal system that utilizes the structure of  
59 a building and its operable components to provide for collection, storage, and distribution of  
60 heating or cooling during the appropriate times of the year by utilizing the climate resources  
61 available at the site.

62 (ii) "Passive solar system" includes those portions and components of a building that  
63 are expressly designed and required for the collection, storage, and distribution of solar energy.

- 64 (j) (i) "Principal recovery portion" means the portion of a lease payment that  
65 constitutes the cost a person incurs in acquiring a residential energy system.
- 66 (ii) "Principal recovery portion" does not include:
- 67 (A) an interest charge; or  
68 (B) a maintenance expense.
- 69 (k) "Residential energy system" means the following used to supply energy to or for a  
70 residential unit:
- 71 (i) an active solar system;  
72 (ii) a biomass system;  
73 (iii) a direct use geothermal system;  
74 (iv) a geothermal heat pump system;  
75 (v) a hydroenergy system;  
76 (vi) a passive solar system; or  
77 (vii) a wind system.
- 78 (l) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling  
79 unit that:
- 80 (A) is located in the state; and  
81 (B) serves as a dwelling for a person, group of persons, or a family.
- 82 (ii) "Residential unit" does not include property subject to a fee under:
- 83 (A) Section 59-2-404;  
84 (B) Section 59-2-405;  
85 (C) Section 59-2-405.1;  
86 (D) Section 59-2-405.2; or  
87 (E) Section 59-2-405.3.
- 88 (m) "Wind system" means a system of apparatus and equipment that is capable of:
- 89 (i) intercepting and converting wind energy into mechanical or electrical energy; and  
90 (ii) transferring these forms of energy by a separate apparatus to the point of use or  
91 storage.
- 92 (2) A claimant, estate, or trust may claim an energy system tax credit as provided in  
93 this section against a tax due under this chapter for a taxable year.
- 94 (3) ~~[(a) Subject to the other provisions of this Subsection (3);]~~ For a taxable year

95 beginning on or before December 31, 2021, a claimant, estate, or trust may claim a  
 96 nonrefundable tax credit under this ~~[Subsection (3)]~~ section with respect to a residential unit  
 97 the claimant, estate, or trust owns or uses if:

98 ~~[(+)]~~ (a) the claimant, estate, or trust:

99 ~~[(A)]~~ (i) purchases and completes a residential energy system to supply all or part of  
 100 the energy required for the residential unit; or

101 ~~[(B)]~~ (ii) participates in the financing of a residential energy system to supply all or  
 102 part of the energy required for the residential unit;

103 ~~[(ii)]~~ (b) the residential energy system is completed and placed in service on or after  
 104 January 1, 2007; and

105 ~~[(iii)]~~ (c) the claimant, estate, or trust obtains a written certification from the office in  
 106 accordance with Subsection ~~[(4)]~~ (5).

107 ~~[(b) (i) Subject to Subsections (3)(b)(ii) through (vi), the tax credit is equal to]~~

108 (4) (a) For a residential energy system, other than an active solar system or a passive  
 109 solar system, the tax credit described in this section is equal to the lesser of:

110 (i) 25% of the reasonable costs, including installation costs, of each residential energy  
 111 system installed with respect to each residential unit the claimant, estate, or trust owns or uses[

112 (ii) A tax credit under this Subsection (3) may include installation costs.]; and

113 (ii) \$2,000.

114 (b) Subject to Subsection (5)(d), for a residential energy system that is an active solar  
 115 system or a passive solar system, the tax credit described in this section is equal to the lesser of:

116 (i) 25% of the reasonable costs, including installation costs, of each system installed  
 117 with respect to each residential unit the claimant, estate, or trust owns or uses; and

118 (ii) (A) for a written certification issued on or after January 1, 2007, but before the  
 119 effective date of this bill, \$2,000;

120 (B) for a written certification issued on or after January 1, 2018, but on or before  
 121 December 31, 2018, \$1,500;

122 (C) for a written certification issued on or after January 1, 2019, but on or before  
 123 December 31, 2019, \$1,000;

124 (D) for a written certification issued on or after January 1, 2020, but on or before  
 125 December 31, 2020, \$500; and

126 (E) for a written certification issued on or after January 1, 2021, but on or before  
127 December 31, 2021, \$250.

128 (c) (i) The office shall determine the amount of the tax credit that a claimant, estate, or  
129 trust may claim and list that amount on the written certification that the office issues under  
130 Subsection (5).

131 (ii) The claimant, estate, or trust may claim the tax credit in the amount listed on the  
132 written certification that the office issues under Subsection (5).

133 ~~[(iii)]~~ (d) A claimant, estate, or trust may claim a tax credit under ~~[this]~~ Subsection (3)  
134 for the taxable year in which the residential energy system is completed and placed in service.

135 ~~[(iv)]~~ (e) If the amount of a tax credit ~~[under this Subsection (3)]~~ listed on the written  
136 certification exceeds a claimant's, estate's, or trust's tax liability under this chapter for a taxable  
137 year, the claimant, estate, or trust may carry forward the amount of the tax credit exceeding the  
138 liability ~~[may be carried forward]~~ for a period that does not exceed the next four taxable years.

139 ~~[(v)]~~ ~~The total amount of tax credit a claimant, estate, or trust may claim under this~~  
140 ~~Subsection (3) may not exceed \$2,000 per residential unit.]~~

141 ~~[(vi)]~~ (f) A claimant, estate, or trust may claim a tax credit with respect to additional  
142 residential energy systems or parts of residential energy systems for a subsequent taxable year  
143 if the total amount of tax credit the claimant, estate, or trust claims does not exceed \$2,000 per  
144 residential unit.

145 ~~[(e)]~~ (g) (i) Subject to Subsections ~~[(3)(e)]~~ (4)(g)(ii) and (iii), a claimant, estate, or trust  
146 that leases a residential energy system installed on a residential unit may claim a tax credit  
147 under ~~[this]~~ Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably  
148 elects not to claim the tax credit.

149 (ii) A claimant, estate, or trust described in Subsection ~~[(3)(e)]~~ (4)(g)(i) that leases a  
150 residential energy system may claim as a tax credit under ~~[this]~~ Subsection (3) only the  
151 principal recovery portion of the lease payments.

152 (iii) A claimant, estate, or trust described in Subsection ~~[(3)(e)]~~ (4)(g)(i) that leases a  
153 residential energy system may claim a tax credit under ~~[this]~~ Subsection (3) for a period that  
154 does not exceed seven taxable years after the date the lease begins, as stated in the lease  
155 agreement.

156 ~~[(d)]~~ (h) If a claimant, estate, or trust sells a residential unit to another person before

157 the claimant, estate, or trust claims the tax credit under [~~this~~] Subsection (3):

158 (i) the claimant, estate, or trust may assign the tax credit to the other person; and

159 (ii) (A) if the other person files a return under Chapter 7, Corporate Franchise and

160 Income Taxes, the other person may claim the tax credit as if the other person had met the

161 requirements of Section 59-7-614 to claim the tax credit; or

162 (B) if the other person files a return under this chapter, the other person may claim the

163 tax credit under this section as if the other person had met the requirements of this section to

164 claim the tax credit.

165 [~~(4)~~] (5) (a) Before a claimant, estate, or trust may claim a tax credit under this section,  
166 the claimant, estate, or trust shall obtain a written certification from the office.

167 (b) [~~The~~] Subject to Subsections (5)(c) and (d), the office shall issue a claimant, estate,  
168 or trust a written certification if the office determines that:

169 (i) the claimant, estate, or trust meets the requirements of this section to receive a tax  
170 credit; and

171 (ii) the office determines that the residential energy system with respect to which the  
172 claimant, estate, or trust seeks to claim a tax credit:

173 (A) has been completely installed;

174 (B) is a viable system for saving or producing energy from renewable resources; and

175 (C) is safe, reliable, efficient, and technically feasible to ensure that the residential  
176 energy system uses the state's renewable and nonrenewable energy resources in an appropriate  
177 and economic manner.

178 (c) (i) Beginning on the effective date of this bill and ending on December 31, 2017,  
179 the office may not receive requests for written certification or issue a written certification for  
180 an active solar system or a passive solar system.

181 (ii) (A) Beginning on January 1, 2018, the office shall receive requests for written  
182 certification and issue written certification of an active solar system or a passive solar system  
183 that is installed on or after January 1, 2018.

184 (B) The office shall issue a written certification for a request received on or after  
185 January 1, 2018, in accordance with this Subsection (5).

186 (d) For a calendar year beginning on or after January 1, 2018, and ending on or before  
187 December 31, 2021:

188 (i) the office shall issue written certifications for active solar systems or passive solar  
189 systems in the order that the office receives the requests for written certification; and

190 (ii) for the final claimant, estate, or trust to receive a written certification of an active  
191 solar system or passive solar system under this Subsection (5), the tax credit described in this  
192 section is equal to the lesser of:

193 (A) the amount described in Subsection (4)(b) for the applicable calendar year; and

194 (B) the difference between the total aggregate dollar amount of written certifications  
195 that the office may issue under Subsection (6) for the applicable calendar year and the total  
196 aggregate dollar amount of the written certifications that the office already issued for active  
197 solar systems and passive solar systems for that calendar year.

198 ~~(e)~~ (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
199 Act, the office may make rules:

200 (i) for determining whether a residential energy system meets the requirements of  
201 Subsection ~~(4)~~ (5)(b)(ii); and

202 (ii) for purposes of determining the amount of a tax credit that a claimant, estate, or  
203 trust may receive under Subsection ~~(3)~~ (4), establishing the reasonable costs of a residential  
204 energy system, as an amount per unit of energy production.

205 ~~(d)~~ (f) A claimant, estate, or trust that obtains a written certification from the office  
206 shall retain the certification for the same time period a person is required to keep books and  
207 records under Section 59-1-1406.

208 ~~(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~  
209 ~~the commission may make rules to address the certification of a tax credit under this section.]~~

210 (6) (a) Beginning on the effective date of this bill and ending on December 31, 2017,  
211 the office may issue a written certification for an active solar system or a passive solar system  
212 under Subsection (5) only if the claimant, estate, or trust requests the written certification  
213 before the effective date of this bill.

214 (b) Beginning on January 1, 2018, and ending on December 31, 2018, the total  
215 aggregate dollar amount of written certifications that the office issues for active solar systems  
216 or passive solar systems may not exceed \$4,000,000.

217 (c) Beginning on January 1, 2019, and ending on December 31, 2019, the total  
218 aggregate dollar amount of written certifications that the office issues for active solar systems

219 or passive solar systems may not exceed \$3,000,000.

220 (d) Beginning on January 1, 2020, and ending on December 31, 2020, the total  
221 aggregate dollar amount of written certifications that the office issues for active solar systems  
222 or passive solar systems may not exceed \$2,000,000.

223 (e) Beginning on January 1, 2021, and ending on December 31, 2021, the total  
224 aggregate dollar amount of written certifications that the office issues for active solar systems  
225 or passive solar systems may not exceed \$1,000,000.

226 (f) On or after January 1, 2022, the office may not issue a written certification for an  
227 active solar system or passive solar system.

228 ~~[(6)]~~ (7) A tax credit under this section is in addition to any tax credits provided under  
229 the laws or rules and regulations of the United States.

230 ~~[(7)]~~ (8) A purchaser of one or more solar units that claims a tax credit under Section  
231 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this  
232 section for that purchase.

233 **Section 2. Effective date.**

234 If approved by two-thirds of all the members elected to each house, this bill takes effect  
235 upon approval by the governor, or the day following the constitutional time limit of Utah  
236 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,  
237 the date of veto override.

238 **Section 3. Revisor instructions.**

239 It is the intent of the Legislature that, in preparing the Utah Code database for  
240 publication, the Office of Legislative Research and General Counsel shall replace the language  
241 "the effective date of this bill" in Subsections 59-10-1014(4)(b)(ii)(A), (5)(c), and (6)(a) with  
242 the bill's actual effective date.