

Revenue and Taxation Interim Committee

Committee Studies Required by Statute -
Solar Project and Renewable Energy System
Tax Credits

59-7-614.3. Nonrefundable tax credit for qualifying solar projects.

- (1) As used in this section:
 - (a) "Active solar system" is as defined in Section 59-7-614.
 - (b) "Purchaser" means a taxpayer that purchases one or more solar units from a qualifying political subdivision.
 - (c) "Qualifying political subdivision" means:
 - (i) a city or town in this state;
 - (ii) an interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act;
 - or
 - (iii) a special service district created under Title 17D, Chapter 1, Special Service District Act.
 - (d) "Qualifying solar project" means the portion of an active solar system:
 - (i) that a qualifying political subdivision:
 - (A) constructs;
 - (B) controls; or
 - (C) owns;
 - (ii) with respect to which the qualifying political subdivision described in Subsection (1)(c)(i) sells one or more solar units; and
 - (iii) that generates electrical output that is furnished:
 - (A) to one or more residential units; or
 - (B) for the benefit of one or more residential units.
 - (e) "Residential unit" is as defined in Section 59-7-614.
 - (f) "Solar unit" means a portion of the electrical output:
 - (i) of a qualifying solar project;
 - (ii) that a qualifying political subdivision sells to a purchaser; and
 - (iii) the purchase of which requires that the purchaser agree to bear a proportionate share of the expense of the qualifying solar project:
 - (A) in accordance with a written agreement between the purchaser and the qualifying political subdivision;
 - (B) in exchange for a credit on the purchaser's electrical bill; and
 - (C) as determined by a formula established by the qualifying political subdivision.
- (2) Subject to Subsection (3), for taxable years beginning on or after January 1, 2008, a purchaser may claim a nonrefundable tax credit equal to the product of:
 - (a) the amount the purchaser pays to purchase one or more solar units during the taxable year; and
 - (b) 25%.
- (3) For a taxable year, a tax credit under this section may not exceed \$2,000 on a return.
- (4) A purchaser may carry forward a tax credit under this section for a period that does not exceed the next four taxable years if:

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(a) the purchaser is allowed to claim a tax credit under this section for a taxable year;
and

(b) the amount of the tax credit exceeds the purchaser's tax liability under this chapter for that taxable year.

(5) Subject to Section 59-7-614, a tax credit under this section is in addition to any other tax credit allowed by this chapter.

(6) (a) On or before October 1, 2012, and every five years after October 1, 2012, the Revenue and Taxation Interim Committee shall review the tax credit allowed by this section and report its recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) The Revenue and Taxation Interim Committee's report under Subsection (6)(a) shall include information concerning the cost of the tax credit, the purpose and effectiveness of the tax credit, and the state's benefit from the tax credit.

Amended by Chapter 384, 2011 General Session

59-10-1024. Nonrefundable tax credit for qualifying solar projects.

- (1) As used in this section:
 - (a) "Active solar system" is as defined in Section 59-10-1014.
 - (b) "Purchaser" means a claimant, estate, or trust that purchases one or more solar units from a qualifying political subdivision.
 - (c) "Qualifying political subdivision" means:
 - (i) a city or town in this state;
 - (ii) an interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act;or
 - (iii) a special service district created under Title 17D, Chapter 1, Special Service District Act.
 - (d) "Qualifying solar project" means the portion of an active solar system:
 - (i) that a qualifying political subdivision:
 - (A) constructs;
 - (B) controls; or
 - (C) owns;
 - (ii) with respect to which the qualifying political subdivision described in Subsection (1)(c)(i) sells one or more solar units; and
 - (iii) that generates electrical output that is furnished:
 - (A) to one or more residential units; or
 - (B) for the benefit of one or more residential units.
 - (e) "Residential unit" is as defined in Section 59-10-1014.
 - (f) "Solar unit" means a portion of the electrical output:
 - (i) of a qualifying solar project;
 - (ii) that a qualifying political subdivision sells to a purchaser; and
 - (iii) the purchase of which requires that the purchaser agree to bear a proportionate share of the expense of the qualifying solar project:
 - (A) in accordance with a written agreement between the purchaser and the qualifying political subdivision;
 - (B) in exchange for a credit on the purchaser's electrical bill; and
 - (C) as determined by a formula established by the qualifying political subdivision.
- (2) Subject to Subsection (3), for taxable years beginning on or after January 1, 2009, a purchaser may claim a nonrefundable tax credit equal to the product of:
 - (a) the amount the purchaser pays to purchase one or more solar units during the taxable year; and
 - (b) 25%.
- (3) For a taxable year, a tax credit under this section may not exceed \$2,000 on a return.
- (4) A purchaser may carry forward a tax credit under this section for a period that does not exceed the next four taxable years if:

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(a) the purchaser is allowed to claim a tax credit under this section for a taxable year;
and

(b) the amount of the tax credit exceeds the purchaser's tax liability under this chapter for that taxable year.

(5) Subject to Section 59-10-1014, a tax credit under this section is in addition to any other tax credit allowed by this chapter.

(6) (a) On or before October 1, 2012, and every five years after October 1, 2012, the Revenue and Taxation Interim Committee shall review the tax credit allowed by this section and report its recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) The Revenue and Taxation Interim Committee's report under Subsection (6)(a) shall include information concerning the cost of the tax credit, the purpose and effectiveness of the tax credit, and the state's benefit from the tax credit.

Amended by Chapter 384, 2011 General Session

59-7-614. Renewable energy systems tax credit -- Definitions -- Limitations -- Certification -- Rulemaking authority.

(1) As used in this section:

(a) "Active solar system":

(i) means a system of equipment capable of collecting and converting incident solar radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy by a separate apparatus to storage or to the point of use; and

(ii) includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means any system of apparatus and equipment for use in converting material into biomass energy, as defined in Section 59-12-102, and transporting that energy by separate apparatus to the point of use or storage.

(c) "Business entity" means any sole proprietorship, estate, trust, partnership, association, corporation, cooperative, or other entity under which business is conducted or transacted.

(d) "Commercial energy system" means any active solar, passive solar, geothermal electricity, direct-use geothermal, geothermal heat-pump system, wind, hydroenergy, or biomass system used to supply energy to a commercial unit or as a commercial enterprise.

(e) "Commercial enterprise" means a business entity whose purpose is to produce electrical, mechanical, or thermal energy for sale from a commercial energy system.

(f) (i) "Commercial unit" means any building or structure that a business entity uses to transact its business.

(ii) Notwithstanding Subsection (1)(f)(i):

(A) in the case of an active solar system used for agricultural water pumping or a wind system, each individual energy generating device shall be a commercial unit; and

(B) if an energy system is the building or structure that a business entity uses to transact its business, a commercial unit is the complete energy system itself.

(g) "Direct-use geothermal system" means a system of apparatus and equipment enabling the direct use of thermal energy, generally between 100 and 300 degrees Fahrenheit, that is contained in the earth to meet energy needs, including heating a building, an industrial process, and aquaculture.

(h) "Geothermal electricity" means energy contained in heat that continuously flows outward from the earth that is used as a sole source of energy to produce electricity.

(i) "Geothermal heat-pump system" means a system of apparatus and equipment enabling the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit to help meet heating and cooling needs of a structure.

(j) "Hydroenergy system" means a system of apparatus and equipment capable of intercepting and converting kinetic water energy into electrical or mechanical energy and transferring this form of energy by separate apparatus to the point of use or storage.

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(k) "Individual taxpayer" means any person who is a taxpayer as defined in Section 59-10-103 and an individual as defined in Section 59-10-103.

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

(m) "Passive solar system":

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

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

(n) "Residential energy system" means any active solar, passive solar, biomass, direct-use geothermal, geothermal heat-pump system, wind, or hydroenergy system used to supply energy to or for any residential unit.

(o) "Residential unit" means any house, condominium, apartment, or similar dwelling unit that serves as a dwelling for a person, group of persons, or a family but does not include property subject to a fee under:

(i) Section 59-2-404;

(ii) Section 59-2-405;

(iii) Section 59-2-405.1;

(iv) Section 59-2-405.2; or

(v) Section 59-2-405.3.

(p) "Wind system" means a system of apparatus and equipment capable of intercepting and converting wind energy into mechanical or electrical energy and transferring these forms of energy by a separate apparatus to the point of use, sale, or storage.

(2) (a) (i) For taxable years beginning on or after January 1, 2007, a business entity that purchases and completes or participates in the financing of a residential energy system to supply all or part of the energy required for a residential unit owned or used by the business entity and situated in Utah is entitled to a nonrefundable tax credit as provided in this Subsection (2)(a).

(ii) (A) A business entity is entitled to a tax credit equal to 25% of the reasonable costs of each residential energy system installed with respect to each residential unit it owns or uses, including installation costs, against any tax due under this chapter for the taxable year in which the energy system is completed and placed in service.

(B) The total amount of each credit under this Subsection (2)(a) may not exceed \$2,000 per residential unit.

(C) The credit under this Subsection (2)(a) is allowed for any residential energy system completed and placed in service on or after January 1, 2007.

(iii) If a business entity sells a residential unit to an individual taxpayer before making a claim for the tax credit under this Subsection (2)(a), the business entity may:

(A) assign its right to this tax credit to the individual taxpayer; and

(B) if the business entity assigns its right to the tax credit to an individual taxpayer under Subsection (2)(a)(iii)(A), the individual taxpayer may claim the tax credit as if the individual taxpayer had completed or participated in the costs of the residential energy system

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under Section 59-10-1014.

(b) (i) For taxable years beginning on or after January 1, 2007, a business entity that purchases or participates in the financing of a commercial energy system situated in Utah is entitled to a refundable tax credit as provided in this Subsection (2)(b) if the commercial energy system does not use wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity, and:

(A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the business entity; or

(B) the business entity sells all or part of the energy produced by the commercial energy system as a commercial enterprise.

(ii) (A) A business entity is entitled to a tax credit of up to 10% of the reasonable costs of any commercial energy system installed, including installation costs, against any tax due under this chapter for the taxable year in which the commercial energy system is completed and placed in service.

(B) Notwithstanding Subsection (2)(b)(ii)(A), the total amount of the credit under this Subsection (2)(b) may not exceed \$50,000 per commercial unit.

(C) The credit under this Subsection (2)(b) is allowed for any commercial energy system completed and placed in service on or after January 1, 2007.

(iii) A business entity that leases a commercial energy system installed on a commercial unit is eligible for the tax credit under this Subsection (2)(b) if the lessee can confirm that the lessor irrevocably elects not to claim the credit.

(iv) Only the principal recovery portion of the lease payments, which is the cost incurred by a business entity in acquiring a commercial energy system, excluding interest charges and maintenance expenses, is eligible for the tax credit under this Subsection (2)(b).

(v) A business entity that leases a commercial energy system is eligible to use the tax credit under this Subsection (2)(b) for a period no greater than seven years from the initiation of the lease.

(vi) A tax credit allowed by this Subsection (2)(b) may not be carried forward or carried back.

(c) (i) For taxable years beginning on or after January 1, 2007, a business entity that owns a commercial energy system situated in Utah using wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity is entitled to a refundable tax credit as provided in this Subsection (2)(c) if:

(A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the business entity; or

(B) the business entity sells all or part of the energy produced by the commercial energy system as a commercial enterprise.

(ii) (A) A business entity is entitled to a tax credit under this section equal to the product of:

(I) 0.35 cents; and

(II) the kilowatt hours of electricity produced and either used or sold during the taxable

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year.

(B) (I) The credit calculated under Subsection (2)(c)(ii)(A) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(II) The credit allowed by this Subsection (2)(c) for each year may not be carried forward or carried back.

(C) The credit under this Subsection (2)(c) is allowed for any commercial energy system completed and placed in service on or after January 1, 2007.

(iii) A business entity that leases a commercial energy system installed on a commercial unit is eligible for the tax credit under this Subsection (2)(c) if the lessee can confirm that the lessor irrevocably elects not to claim the credit.

(d) (i) A tax credit under Subsection (2)(a) or (b) may be claimed for the taxable year in which the energy system is completed and placed in service.

(ii) Additional energy systems or parts of energy systems may be claimed for subsequent years.

(iii) If the amount of a tax credit under Subsection (2)(a) exceeds a business entity's tax liability under this chapter for a taxable year, the amount of the credit exceeding the liability may be carried forward for a period which does not exceed the next four taxable years.

(3) (a) Except as provided in Subsection (3)(b), the tax credits provided for under Subsection (2) are in addition to any tax credits provided under the laws or rules and regulations of the United States.

(b) A purchaser of one or more solar units that claims a tax credit under Section 59-7-614.3 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

(c) (i) The office may set standards for residential and commercial energy systems claiming a credit under Subsections (2)(a) and (b) that cover the safety, reliability, efficiency, leasing, and technical feasibility of the systems to ensure that the systems eligible for the tax credit use the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(ii) The office may set standards for residential and commercial energy systems that establish the reasonable costs of an energy system, as used in Subsections (2)(a)(ii)(A) and (2)(b)(ii)(A), as an amount per unit of energy production.

(iii) A tax credit may not be taken under Subsection (2) until the office has certified that the energy system has been completely installed and is a viable system for saving or production of energy from renewable resources.

(d) The office and the commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to implement this section.

(4) (a) On or before October 1, 2012, and every five years thereafter, the Revenue and Taxation Interim Committee shall review each tax credit provided by this section and report its recommendations to the Legislative Management Committee concerning whether the credit should be continued, modified, or repealed.

(b) The Revenue and Taxation Interim Committee's report under Subsection (4)(a) shall
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include information concerning the cost of the credit, the purpose and effectiveness of the credit, and the state's benefit from the credit.

Amended by Chapter 37, 2012 General Session

59-10-1014. Renewable energy systems tax credit -- Definitions -- Limitations -- Certification -- Rulemaking authority.

(1) As used in this part:

(a) "Active solar system":

(i) means a system of equipment capable of collecting and converting incident solar radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy by a separate apparatus to storage or to the point of use; and

(ii) includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means any system of apparatus and equipment for use in converting material into biomass energy, as defined in Section 59-12-102, and transporting that energy by separate apparatus to the point of use or storage.

(c) "Business entity" means any entity under which business is conducted or transacted.

(d) "Direct-use geothermal system" means a system of apparatus and equipment enabling the direct use of thermal energy, generally between 100 and 300 degrees Fahrenheit, that is contained in the earth to meet energy needs, including heating a building, an industrial process, and aquaculture.

(e) "Geothermal electricity" means energy contained in heat that continuously flows outward from the earth that is used as a sole source of energy to produce electricity.

(f) "Geothermal heat-pump system" means a system of apparatus and equipment enabling the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit to help meet heating and cooling needs of a structure.

(g) "Hydroenergy system" means a system of apparatus and equipment capable of intercepting and converting kinetic water energy into electrical or mechanical energy and transferring this form of energy by separate apparatus to the point of use or storage.

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

(i) "Passive solar system":

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

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

(j) "Residential energy system" means any active solar, passive solar, biomass, direct-use geothermal, geothermal heat-pump system, wind, or hydroenergy system used to supply energy to or for any residential unit.

(k) "Residential unit" means any house, condominium, apartment, or similar dwelling unit that serves as a dwelling for a person, group of persons, or a family but does not include property subject to a fee under:

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- (i) Section 59-2-404;
- (ii) Section 59-2-405;
- (iii) Section 59-2-405.1;
- (iv) Section 59-2-405.2; or
- (v) Section 59-2-405.3.

(1) "Wind system" means a system of apparatus and equipment capable of intercepting and converting wind energy into mechanical or electrical energy and transferring these forms of energy by a separate apparatus to the point of use or storage.

(2) For taxable years beginning on or after January 1, 2007, a claimant, estate, or trust may claim a nonrefundable tax credit as provided in this section if:

(a) a claimant, estate, or trust that is not a business entity purchases and completes or participates in the financing of a residential energy system to supply all or part of the energy for the claimant's, estate's, or trust's residential unit in the state; or

(b) (i) a claimant, estate, or trust that is a business entity sells a residential unit to another claimant, estate, or trust that is not a business entity before making a claim for a tax credit under Subsection (6) or Section 59-7-614; and

(ii) the claimant, estate, or trust that is a business entity assigns its right to the tax credit to the claimant, estate, or trust that is not a business entity as provided in Subsection (6)(c) or Subsection 59-7-614(2)(a)(iii).

(3) (a) The tax credit described in Subsection (2) is equal to 25% of the reasonable costs of each residential energy system, including installation costs, against any income tax liability of the claimant, estate, or trust under this chapter for the taxable year in which the residential energy system is completed and placed in service.

(b) The total amount of each tax credit under this section may not exceed \$2,000 per residential unit.

(c) The tax credit under this section is allowed for any residential energy system completed and placed in service on or after January 1, 2007.

(4) (a) The tax credit provided for in this section shall be claimed in the return for the taxable year in which the residential energy system is completed and placed in service.

(b) Additional residential energy systems or parts of residential energy systems may be similarly claimed in returns for subsequent taxable years as long as the total amount claimed does not exceed \$2,000 per residential unit.

(c) If the amount of the tax credit under this section exceeds the income tax liability of the claimant, estate, or trust claiming the tax credit under this section for that taxable year, then the amount not used may be carried over for a period that does not exceed the next four taxable years.

(5) (a) A claimant, estate, or trust that is not a business entity that leases a residential energy system installed on a residential unit is eligible for the residential energy tax credit if that claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(b) Only the principal recovery portion of the lease payments, which is the cost incurred by the claimant, estate, or trust in acquiring the residential energy system excluding interest charges and maintenance expenses, is eligible for the tax credits.

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(c) A claimant, estate, or trust described in this Subsection (5) may use the tax credits for a period that does not exceed seven years from the initiation of the lease.

(6) (a) A claimant, estate, or trust that is a business entity that purchases and completes or participates in the financing of a residential energy system to supply all or part of the energy required for a residential unit owned or used by the claimant, estate, or trust that is a business entity and situated in Utah is entitled to a nonrefundable tax credit as provided in this Subsection (6).

(b) (i) For taxable years beginning on or after January 1, 2007, a claimant, estate, or trust that is a business entity is entitled to a nonrefundable tax credit equal to 25% of the reasonable costs of a residential energy system installed with respect to each residential unit it owns or uses, including installation costs, against any tax due under this chapter for the taxable year in which the energy system is completed and placed in service.

(ii) The total amount of the tax credit under this Subsection (6) may not exceed \$2,000 per residential unit.

(iii) The tax credit under this Subsection (6) is allowed for any residential energy system completed and placed in service on or after January 1, 2007.

(c) If a claimant, estate, or trust that is a business entity sells a residential unit to a claimant, estate, or trust that is not a business entity before making a claim for the tax credit under this Subsection (6), the claimant, estate, or trust that is a business entity may:

(i) assign its right to this tax credit to the claimant, estate, or trust that is not a business entity; and

(ii) if the claimant, estate, or trust that is a business entity assigns its right to the tax credit to a claimant, estate, or trust that is not a business entity under Subsection (6)(c)(i), the claimant, estate, or trust that is not a business entity may claim the tax credit as if that claimant, estate, or trust that is not a business entity had completed or participated in the costs of the residential energy system under this section.

(7) (a) A tax credit under this section may be claimed for the taxable year in which the residential energy system is completed and placed in service.

(b) Additional residential energy systems or parts of residential energy systems may be claimed for subsequent years.

(c) If the amount of a tax credit under this section exceeds the tax liability of the claimant, estate, or trust claiming the tax credit under this section for a taxable year, the amount of the tax credit exceeding the tax liability may be carried over for a period which does not exceed the next four taxable years.

(8) (a) Except as provided in Subsection (8)(b), tax credits provided for under this section are in addition to any tax credits provided under the laws or rules and regulations of the United States.

(b) A purchaser of one or more solar units that claims a tax credit under Section 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

(9) (a) The office may set standards for residential energy systems that cover the safety,
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reliability, efficiency, leasing, and technical feasibility of the systems to ensure that the systems eligible for the tax credit use the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(b) The office may set standards for residential and commercial energy systems that establish the reasonable costs of an energy system, as used in Subsections (3)(a) and (6)(b)(i), as an amount per unit of energy production.

(c) A tax credit may not be taken under this section until the office has certified that the energy system has been completely installed and is a viable system for saving or production of energy from renewable resources.

(10) The office and the commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to implement this section.

(11) (a) On or before October 1, 2012, and every five years thereafter, the Revenue and Taxation Interim Committee shall review each tax credit provided by this section and report its recommendations to the Legislative Management Committee concerning whether the credit should be continued, modified, or repealed.

(b) The Revenue and Taxation Interim Committee's report under Subsection (11)(a) shall include information concerning the cost of the credit, the purpose and effectiveness of the credit, and the state's benefit from the credit.

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