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INCOME TAX CREDIT MODIFICATIONS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jeremy A. Peterson

Senate Sponsor: _____

LONG TITLE

Committee Note:

The Revenue and Taxation Interim Committee recommended this bill.

General Description:

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

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

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

Utah Code Sections Affected by Revisor Instructions:



28 **59-10-1014**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1



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

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

32 **59-10-1014. Nonrefundable renewable energy systems tax credits -- Definitions --**
33 **Certification -- Rulemaking authority.**

34 (1) As used in this section:

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

36 (A) collecting and converting incident solar radiation into thermal, mechanical, or
37 electrical energy; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

58 (i) intercepting and converting kinetic water energy into electrical or mechanical

59 energy; and

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

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

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

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

68 (j) (i) "Principal recovery portion" means the portion of a lease payment that
69 constitutes the cost a person incurs in acquiring a residential energy system.

70 (ii) "Principal recovery portion" does not include:

71 (A) an interest charge; or

72 (B) a maintenance expense.

73 (k) "Residential energy system" means the following used to supply energy to or for a
74 residential unit:

75 (i) an active solar system;

76 (ii) a biomass system;

77 (iii) a direct use geothermal system;

78 (iv) a geothermal heat pump system;

79 (v) a hydroenergy system;

80 (vi) a passive solar system; or

81 (vii) a wind system.

82 (l) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling
83 unit that:

84 (A) is located in the state; and

85 (B) serves as a dwelling for a person, group of persons, or a family.

86 (ii) "Residential unit" does not include property subject to a fee under:

87 (A) Section [59-2-404](#);

88 (B) Section [59-2-405](#);

89 (C) Section [59-2-405.1](#);

90 (D) Section 59-2-405.2; or

91 (E) Section 59-2-405.3.

92 (m) "Wind system" means a system of apparatus and equipment that is capable of:

93 (i) intercepting and converting wind energy into mechanical or electrical energy; and

94 (ii) transferring these forms of energy by a separate apparatus to the point of use or
95 storage.

96 (2) A claimant, estate, or trust may claim an energy system tax credit as provided in
97 this section against a tax due under this chapter for a taxable year.

98 (3) ~~[(a) Subject to the other provisions of this Subsection (3);]~~ For a taxable year
99 beginning on or before December 31, 2021, a claimant, estate, or trust may claim a
100 nonrefundable tax credit under this ~~[Subsection (3)]~~ section with respect to a residential unit
101 the claimant, estate, or trust owns or uses if:

102 ~~[(i)]~~ (a) the claimant, estate, or trust:

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

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

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

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

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

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

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

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

117 (ii) \$2,000.

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

120 (i) 25% of the reasonable costs, including installation costs, of each system installed

121 with respect to each residential unit the claimant, estate, or trust owns or uses; and

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

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

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

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

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

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

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

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

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

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

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

149 ~~[(v)]~~ (g) (i) Subject to Subsections ~~[(3)(c)]~~ (4)(g)(ii) and (iii), a claimant, estate, or trust
 150 that leases a residential energy system installed on a residential unit may claim a tax credit
 151 under ~~[this]~~ Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably

152 elects not to claim the tax credit.

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

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

160 [~~(d)~~] (h) If a claimant, estate, or trust sells a residential unit to another person before
161 the claimant, estate, or trust claims the tax credit under [~~this~~] Subsection (3):

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

163 (ii) (A) if the other person files a return under Chapter 7, Corporate Franchise and
164 Income Taxes, the other person may claim the tax credit as if the other person had met the
165 requirements of Section 59-7-614 to claim the tax credit; or

166 (B) if the other person files a return under this chapter, the other person may claim the
167 tax credit under this section as if the other person had met the requirements of this section to
168 claim the tax credit.

169 [~~(4)~~] (5) (a) Before a claimant, estate, or trust may claim a tax credit under this section,
170 the claimant, estate, or trust shall obtain a written certification from the office.

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

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

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

177 (A) has been completely installed;

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

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

182 (c) (i) Beginning on the effective date of this bill and ending on December 31, 2017,

183 the office may not receive requests for written certification or issue a written certification for
184 an active solar system or a passive solar system.

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

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

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

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

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

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

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

202 ~~[(e)]~~ (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
203 Act, the office may make rules:

204 (i) for determining whether a residential energy system meets the requirements of
205 Subsection ~~[(4)]~~ (5)(b)(ii); and

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

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

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

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

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

221 (c) Beginning on January 1, 2019, and ending on December 31, 2019, the total
222 aggregate dollar amount of written certifications that the office issues for active solar systems
223 or passive solar systems may not exceed \$3,000,000.

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

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

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

232 ~~[(6)]~~ (7) A tax credit under this section is in addition to any tax credits provided under
233 the laws or rules and regulations of the United States.

234 ~~[(7)]~~ (8) A purchaser of one or more solar units that claims a tax credit under Section
235 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this
236 section for that purchase.

237 Section 2. **Effective date.**

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

242 Section 3. **Revisor instructions.**

243 It is the intent of the Legislature that, in preparing the Utah Code database for
244 publication, the Office of Legislative Research and General Counsel shall replace the language

245 "the effective date of this bill" in Subsections [59-10-1014\(4\)\(b\)\(ii\)\(A\)](#), (5)(c), and (6)(a) with
246 the bill's actual effective date.

Legislative Review Note
Office of Legislative Research and General Counsel