

Effective 5/3/2023

Effective until 5/1/2024

59-10-1106 Refundable renewable energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

(1) As used in this section:

- (a) "Active solar system" means the same as that term is defined in Section 59-10-1014.
- (b) "Biomass system" means the same as that term is defined in Section 59-10-1014.
- (c) "Commercial energy system" means the same as that term is defined in Section 59-7-614.
- (d) "Commercial enterprise" means the same as that term is defined in Section 59-7-614.
- (e) "Commercial unit" means the same as that term is defined in Section 59-7-614.
- (f) "Direct use geothermal system" means the same as that term is defined in Section 59-10-1014.
- (g) "Geothermal electricity" means the same as that term is defined in Section 59-10-1014.
- (h) "Geothermal energy" means the same as that term is defined in Section 59-10-1014.
- (i) "Geothermal heat pump system" means the same as that term is defined in Section 59-10-1014.
- (j) "Hydroenergy system" means the same as that term is defined in Section 59-10-1014.
- (k) "Hydrogen production system" means the same as that term is defined in Section 59-7-614.
- (l) "Office" means the Office of Energy Development created in Section 79-6-401.
- (m) "Passive solar system" means the same as that term is defined in Section 59-10-1014.
- (n) "Principal recovery portion" means the same as that term is defined in Section 59-10-1014.
- (o) "Wind system" means the same as that term is defined in Section 59-10-1014.

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

- (3)
- (a) Subject to the other provisions of this Subsection (3), a claimant, estate, or trust may claim a refundable tax credit under this Subsection (3) with respect to a commercial energy system if:
 - (i) the commercial energy system does not use:
 - (A) wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or
 - (B) solar equipment capable of producing 2,000 or more kilowatts of electricity;
 - (ii) the claimant, estate, or trust purchases or participates in the financing of the commercial energy system;
 - (iii)
 - (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or
 - (B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;
 - (iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (6) for hydrogen production using electricity for which the claimant, estate, or trust claims a tax credit under this Subsection (3); and
 - (v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (7).
 - (b)
 - (i) Subject to Subsections (3)(b)(ii) through (iv), the tax credit is equal to 10% of the reasonable costs of the commercial energy system.
 - (ii) A tax credit under this Subsection (3) may include installation costs.

- (iii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (3) for the taxable year in which the commercial energy system is completed and placed in service.
 - (iv) The total amount of tax credit a claimant, estate, or trust may claim under this Subsection (3) may not exceed \$50,000 per commercial unit.
- (c)
- (i) Subject to Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.
 - (ii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim as a tax credit under this Subsection (3) only the principal recovery portion of the lease payments.
 - (iii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim a tax credit under this Subsection (3) for a period that does not exceed seven taxable years after the day on which the lease begins, as stated in the lease agreement.
- (4)
- (a) Subject to the other provisions of this Subsection (4), a claimant, estate, or trust may claim a refundable tax credit under this Subsection (4) with respect to a commercial energy system if:
 - (i) the commercial energy system uses wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity;
 - (ii)
 - (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or
 - (B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;
 - (iii) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (6) for hydrogen production using electricity for which the claimant, estate, or trust claims a tax credit under this Subsection (4); and
 - (iv) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (7).
 - (b)
 - (i) Subject to Subsection (4)(b)(ii), a tax credit under this Subsection (4) is equal to the product of:
 - (A) 0.35 cents; and
 - (B) the kilowatt hours of electricity produced and used or sold during the taxable year.
 - (ii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (4) for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.
 - (c) A claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (4) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.
- (5)
- (a) Subject to the other provisions of this Subsection (5), a claimant, estate, or trust may claim a refundable tax credit as provided in this Subsection (5) if:
 - (i) the claimant, estate, or trust owns a commercial energy system that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity;
 - (ii)
 - (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or

- (B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;
 - (iii) the claimant, estate, or trust does not claim a tax credit under Subsection (3);
 - (iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (6) for hydrogen production using electricity for which a taxpayer claims a tax credit under this Subsection (5); and
 - (v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (7).
- (b)
- (i) Subject to Subsection (5)(b)(ii), a tax credit under this Subsection (5) is equal to the product of:
 - (A) 0.35 cents; and
 - (B) the kilowatt hours of electricity produced and used or sold during the taxable year.
 - (ii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (5) for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.
 - (c) A claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (5) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.
- (6)
- (a) A claimant, estate, or trust may claim a refundable tax credit as provided in this Subsection (6) if:
 - (i) the claimant, estate, or trust owns a hydrogen production system;
 - (ii) the hydrogen production system is completed and placed in service on or after January 1, 2022;
 - (iii) the claimant, estate, or trust sells as a commercial enterprise, or supplies for the claimant's, estate's, or trust's own use in commercial units, the hydrogen produced from the hydrogen production system;
 - (iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (3), (4), or (5) for electricity used to meet the requirements of this Subsection (6); and
 - (v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (7).
 - (b)
 - (i) Subject to Subsections (6)(b)(ii) and (iii), a tax credit under this Subsection (6) is equal to the product of:
 - (A) \$0.12; and
 - (B) the number of kilograms of hydrogen produced during the taxable year.
 - (ii) A claimant, estate, or trust may not receive a tax credit under this Subsection (6) for more than 5,600 metric tons of hydrogen per taxable year.
 - (iii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (6) for production occurring during a period of 48 months beginning with the month in which the hydrogen production system is placed in commercial service.
- (7)
- (a) Before a claimant, estate, or trust may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.
 - (b) The office shall issue a claimant, estate, or trust a written certification if the office determines that:

- (i) the claimant, estate, or trust meets the requirements of this section to receive a tax credit; and
- (ii) the commercial energy system or the hydrogen production system with respect to which the claimant, estate, or trust seeks to claim a tax credit:
 - (A) has been completely installed;
 - (B) is a viable system for saving or producing energy from renewable resources; and
 - (C) is safe, reliable, efficient, and technically feasible to ensure that the commercial energy system or the hydrogen production system uses the state's renewable and nonrenewable resources in an appropriate and economic manner.
- (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:
 - (i) for determining whether a commercial energy system or a hydrogen production system meets the requirements of Subsection (7)(b)(ii); and
 - (ii) for purposes of a tax credit under Subsection (3), establishing the reasonable costs of a commercial energy system, as an amount per unit of energy production.
- (d) A claimant, estate, or trust that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.
- (e) The office shall submit to the commission an electronic list that includes:
 - (i) the name and identifying information of each claimant, estate, or trust to which the office issues a written certification; and
 - (ii) for each claimant, estate, or trust:
 - (A) the amount of the tax credit listed on the written certification; and
 - (B) the date the commercial energy system or the hydrogen production system was installed.
- (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.
- (9) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.
- (10) 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.
- (11) A claimant, estate, or trust may not claim or carry forward a tax credit described in this section in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 59-10-1029.