

Representative Jeremy A. Peterson proposes the following substitute bill:

INCOME TAX CREDIT MODIFICATIONS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jeremy A. Peterson

Senate Sponsor: Curtis S. Bramble

LONG TITLE

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:

None

Utah Code Sections Affected:

AMENDS:

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

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



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

27 **59-10-1014. Nonrefundable renewable energy systems tax credits -- Definitions --**

28 **Certification -- Rulemaking authority.**

29 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

62a ~~H~~→ (j) **"Photovoltaic system" means an active solar system that generates electricity from**
 62b **sunlight.**

63 [~~(j)~~] (k) ←~~H~~ (i) "Principal recovery portion" means the portion of a lease payment that
 64 constitutes the cost a person incurs in acquiring a residential energy system.

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

66 (A) an interest charge; or

67 (B) a maintenance expense.

68 ~~H~~→ [~~(k)~~] (l) ←~~H~~ "Residential energy system" means the following used to supply energy to
 68a or for a
 69 residential unit:

70 (i) an active solar system;

71 (ii) a biomass system;

72 (iii) a direct use geothermal system;

73 (iv) a geothermal heat pump system;

74 (v) a hydroenergy system;

75 (vi) a passive solar system; or

76 (vii) a wind system.

77 ~~H~~→ [~~(l)~~] (m) ←~~H~~ (i) "Residential unit" means a house, condominium, apartment, or similar
 77a dwelling
 78 unit that:

79 (A) is located in the state; and

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

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

82 (A) Section 59-2-404;

83 (B) Section 59-2-405;

84 (C) Section 59-2-405.1;

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

86 (E) Section 59-2-405.3.

87 ~~H~~→ [~~(m)~~] (n) ←~~H~~ "Wind system" means a system of apparatus and equipment that is
 87a capable of:

88 (i) intercepting and converting wind energy into mechanical or electrical energy; and
 89 (ii) transferring these forms of energy by a separate apparatus to the point of use or
 90 storage.

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

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

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

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

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

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

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

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

107 (4) (a) For a residential energy system, other than ~~H~~ → **[an active solar system or a passive**
 108 **solar system] a photovoltaic system ←H** , the tax credit described in this section is equal to the
 108a lesser of:

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

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

112 (ii) \$2,000.

113 (b) Subject to Subsection (5)(d), for a residential energy system that is ~~H~~ → **[an active solar**
 114 **system or a passive solar system] a photovoltaic system ←H** , the tax credit described in this section
 114a is equal to the lesser of:

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

117 (ii) (A) for a system installed on or after January 1, 2007, but before December 31,
 118 2017, \$2,000;

119 (B) for a system installed on or after January 1, 2018, but on or before December 31,
120 2018, \$1,600;

121 (C) for a system installed on or after January 1, 2019, but on or before December 31,
122 2019, \$1,200;

123 (D) for a system installed on or after January 1, 2020, but on or before December 31,
124 2020, \$800; and

125 (E) for a system installed on or after January 1, 2021, but on or before December 31,
126 2021, \$400.

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

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

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

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 office shall issue a claimant, estate, or trust a written certification if the office
168 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) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
179 office may make rules:

180 (i) for determining whether a residential energy system meets the requirements of

181 Subsection ~~[(4)]~~ (5)(b)(ii); and

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

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

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

190 (6) A tax credit under this section is in addition to any tax credits provided under the
191 laws or rules and regulations of the United States.

192 (7) A purchaser of one or more solar units that claims a tax credit under Section
193 [59-10-1024](#) for the purchase of the one or more solar units may not claim a tax credit under this
194 section for that purchase.