

1                                   **INCOME TAX CREDIT MODIFICATIONS**

2   2017 GENERAL SESSION

3   STATE OF UTAH

4                                   **Chief Sponsor: Jeremy A. Peterson**

5                                   Senate Sponsor: Curtis S. Bramble

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7 **LONG TITLE**

8 **General Description:**

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

11 **Highlighted Provisions:**

12           This bill:

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

17 **Money Appropriated in this Bill:**

18           None

19 **Other Special Clauses:**

20           None

21 **Utah Code Sections Affected:**

22 AMENDS:

23           **59-10-1014**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

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25 *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.

63 (j) "Photovoltaic system" means an active solar system that generates electricity from  
64 sunlight.

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

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

68 (A) an interest charge; or

69 (B) a maintenance expense.

70 ~~[(k)]~~ (l) "Residential energy system" means the following used to supply energy to or  
71 for a residential unit:

72 (i) an active solar system;

73 (ii) a biomass system;

74 (iii) a direct use geothermal system;

75 (iv) a geothermal heat pump system;

76 (v) a hydroenergy system;

77 (vi) a passive solar system; or

78 (vii) a wind system.

79 ~~[(l)]~~ (m) (i) "Residential unit" means a house, condominium, apartment, or similar  
80 dwelling unit that:

81 (A) is located in the state; and

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

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

84 (A) Section 59-2-404;

85 (B) Section 59-2-405;

86 (C) Section 59-2-405.1;

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

88 (E) Section 59-2-405.3.

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

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

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

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

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

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

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

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

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

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

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

109 (4) (a) For a residential energy system, other than a photovoltaic system, the tax credit

110 described in this section is equal to the lesser of:

111 (i) 25% of the reasonable costs, including installation costs, of each residential energy  
 112 system installed with respect to each residential unit the claimant, estate, or trust owns or uses[  
 113 (ii) A tax credit under this Subsection (3) may include installation costs.]; and

114 (ii) \$2,000.

115 (b) Subject to Subsection (5)(d), for a residential energy system that is a photovoltaic  
 116 system, the tax credit described in this section is equal to the lesser of:

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

119 (ii) (A) for a system installed on or after January 1, 2007, but before December 31,  
 120 2017, \$2,000;

121 (B) for a system installed on or after January 1, 2018, but on or before December 31,  
 122 2018, \$1,600;

123 (C) for a system installed on or after January 1, 2019, but on or before December 31,  
 124 2019, \$1,200;

125 (D) for a system installed on or after January 1, 2020, but on or before December 31,  
 126 2020, \$800; and

127 (E) for a system installed on or after January 1, 2021, but on or before December 31,  
 128 2021, \$400.

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

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

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

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

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

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

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

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

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

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

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

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

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

167 ~~[(4)]~~ (5) (a) Before a claimant, estate, or trust may claim a tax credit under this section,  
168 the claimant, estate, or trust shall obtain a written certification from the office.

169 (b) The office shall issue a claimant, estate, or trust a written certification if the office  
170 determines that:

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

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

175 (A) has been completely installed;

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

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

180 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
181 office may make rules:

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

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

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

190 ~~[(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~

191 ~~the commission may make rules to address the certification of a tax credit under this section.]~~

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

194           (7) A purchaser of one or more solar units that claims a tax credit under Section  
195 [59-10-1024](#) for the purchase of the one or more solar units may not claim a tax credit under this  
196 section for that purchase.