

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 884

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
PROVIDING FOR INCOME TAX AND CORPORATE INCOME TAX CREDITS FOR
CONSTRUCTION OF GREEN BUILDINGS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Income Tax Act is enacted
to read:

"[NEW MATERIAL] INCOME TAX--CREDIT FOR INCREMENTAL COSTS
OF CONSTRUCTION OF GREEN BUILDINGS.--

A. To encourage the construction of green
buildings, a taxpayer who files an individual New Mexico income
tax return and who is not a dependent of another taxpayer may
claim a credit in an amount equal to the incremental cost
incurred by the taxpayer in the taxable year for which the
credit is claimed or in the year prior to the taxable year for

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underscoring material = new
[bracketed material] = delete

1 which the credit is claimed for the construction in New Mexico
2 of a green building owned by the taxpayer.

3 B. For the purposes of this section:

4 (1) "green building" means a building that is
5 designed and constructed to significantly reduce or eliminate
6 the negative impact of the built environment on:

7 (a) site conservation and sustainable
8 planning;

9 (b) water conservation and efficiency;

10 (c) energy efficiency and renewable
11 energy;

12 (d) conservation of materials and
13 resources; or

14 (e) indoor environmental quality and
15 human health;

16 (2) "incremental cost" means the additional
17 cost, above the cost of construction to usual industry
18 standards, required to construct a building to the standards
19 required to achieve a silver rating in the LEED green building
20 rating system; and

21 (3) "LEED green building rating system" means
22 the most current leadership in energy and environmental design
23 green building rating system guidelines developed and adopted
24 by the United States green building council.

25 C. To be eligible for the credit, the taxpayer must

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1 provide to the department, in a form to be determined by the
2 department, the following information relating to the building
3 with respect to which the tax credit is being claimed:

4 (1) verification from the energy, minerals and
5 natural resources department that the building has achieved
6 LEED certification of at least a silver rating in the LEED
7 green building rating system;

8 (2) information from the construction
9 industries division of the regulation and licensing department
10 estimating the cost for construction to usual industry
11 standards of a substantially similar building; and

12 (3) evidence of the costs incurred by the
13 taxpayer for construction of the building.

14 D. The credit provided by this section may be
15 deducted from the taxpayer's income tax liability for the
16 taxable year in which the credit is claimed. If the amount of
17 the credit exceeds the taxpayer's income tax liability, the
18 excess credit may be carried forward for up to five years.

19 E. A taxpayer who otherwise qualifies to claim a
20 credit pursuant to this section and who is a member of a
21 partnership, S corporation or business association that is the
22 owner of the building with respect to which the credit is being
23 claimed may claim a credit only in proportion to the taxpayer's
24 interest in the partnership, S corporation or business
25 association.

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1 F. A husband and wife who file separate returns for
2 a taxable year in which they could have filed a joint return
3 may each claim only one-half of the credit that would have been
4 allowed on a joint return."

5 Section 2. A new section of the Corporate Income and
6 Franchise Tax Act is enacted to read:

7 "[NEW MATERIAL] CORPORATE INCOME TAX--CREDIT FOR
8 INCREMENTAL COSTS OF CONSTRUCTION OF GREEN BUILDINGS.--

9 A. To encourage the construction of green
10 buildings, a taxpayer that files a corporate income tax return
11 may claim a credit in an amount equal to the incremental cost
12 incurred by the taxpayer in the taxable year for which the
13 credit is claimed or in the year prior to the taxable year for
14 which the credit is claimed for the construction in New Mexico
15 of a green building owned by the taxpayer.

16 B. For the purposes of this section:

17 (1) "green building" means a building that is
18 designed and constructed to significantly reduce or eliminate
19 the negative impact of the built environment on:

- 20 (a) site conservation and sustainable
21 planning;
22 (b) water conservation and efficiency;
23 (c) energy efficiency and renewable
24 energy;
25 (d) conservation of materials and

1 resources; or

2 (e) indoor environmental quality and
3 human health;

4 (2) "incremental cost" means the additional
5 cost, above the cost of construction to usual industry
6 standards, required to construct a building to the standards
7 required to achieve a silver rating in the LEED green building
8 rating system; and

9 (3) "LEED green building rating system" means
10 the most current leadership in energy and environmental design
11 green building rating system guidelines developed and adopted
12 by the United States green building council.

13 C. To be eligible for the credit, the taxpayer must
14 provide to the department, in a form to be determined by the
15 department, the following information relating to the building
16 with respect to which the tax credit is being claimed:

17 (1) verification from the energy, minerals and
18 natural resources department that the building has achieved
19 LEED certification of at least a silver rating in the LEED
20 green building rating system;

21 (2) information from the construction
22 industries division of the regulation and licensing department
23 estimating the cost for construction to usual industry
24 standards of a substantially similar building; and

25 (3) evidence of the costs incurred by the

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1 taxpayer for construction of the building.

2 D. The credit provided by this section may be
3 deducted from the taxpayer's corporate income tax liability for
4 the taxable year in which the credit is claimed. If the amount
5 of the credit exceeds the taxpayer's corporate income tax
6 liability, the excess credit may be carried forward for up to
7 five years.

8 E. A taxpayer that otherwise qualifies to claim a
9 credit pursuant to this section and that is a member of a
10 partnership, limited liability corporation or business
11 association that is the owner of the building with respect to
12 which the credit is being claimed may claim a credit only in
13 proportion to the taxpayer's interest in the partnership,
14 limited liability corporation or business association."

15 Section 3. APPLICABILITY.--The provisions of this act
16 apply to taxable years beginning on or after January 1, 2006.