

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 121

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

AN ACT

RELATING TO TAXATION; PROVIDING FOR TAX CREDITS PERTAINING TO
SOLAR ENERGY USE.

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

Section 1. SHORT TITLE.--This act may be cited as the
"Solar Thermal and Photovoltaic Systems Tax Credit Act".

Section 2. DEFINITIONS.--As used in the Solar Thermal and
Photovoltaic Systems Tax Credit Act:

A. "department" means the taxation and revenue
department;

B. "photovoltaic system" means a stand-alone or a
grid-connected energy system that collects or absorbs sunlight
for conversion into electricity; and

C. "solar thermal system" means an energy system
that collects or absorbs solar energy for conversion into heat

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underscored material = new
[bracketed material] = delete

1 for the purposes of space heating and water heating.

2 Section 3. INCOME TAX--CORPORATE INCOME TAX--CREDIT FOR
3 SOLAR THERMAL SYSTEM INSTALLATION.--

4 A. Except as otherwise provided by Subsection C of
5 this section, a person who files an individual New Mexico
6 income tax return for any taxable year beginning on or after
7 January 1, 2007 and ending on or before December 31, 2016, and
8 who installs a solar thermal system after July 1, 2005 at a
9 residence in New Mexico owned by that person may apply for, and
10 the department may allow, a tax credit in an amount equal to
11 fifteen percent of the installation costs, provided that the
12 maximum tax credit that may be claimed by the taxpayer pursuant
13 to this subsection shall not exceed one thousand five hundred
14 dollars (\$1,500).

15 B. Except as otherwise provided by Subsection C of
16 this section, a person that files a corporate income tax return
17 for any taxable year beginning on or after January 1, 2007 and
18 ending on or before December 31, 2006, and that installs a
19 solar thermal system after July 1, 2005 at a commercial
20 facility in New Mexico owned by that person may apply for, and
21 the department may allow, a credit in an amount equal to
22 fifteen percent of the installation costs, provided that the
23 maximum tax credit that may be claimed by the taxpayer pursuant
24 to this subsection shall not exceed one thousand five hundred
25 dollars (\$1,500).

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1 C. The department shall not allow a tax credit
2 pursuant to this section if allowing that tax credit would
3 cause the aggregate amount of tax credits allowed pursuant to
4 this subsection to exceed one million dollars (\$1,000,000).

5 D. The tax credit allowed pursuant to Subsection A
6 of this section may only be deducted from a taxpayer's New
7 Mexico income tax liability for the taxable year. Any portion
8 of the maximum credit provided by Subsection A of this section
9 that remains unused at the end of the taxpayer's taxable year
10 may be carried forward for three taxable years; provided that
11 the total credits shall not exceed the maximum allowable credit
12 pursuant to Subsection A of this section. Any portion of the
13 maximum credit provided by Subsection A of this section that
14 remains unused at the end of the third taxable year may be
15 refunded to the taxpayer.

16 E. If a person claiming a tax credit pursuant to
17 Subsection A of this section does not have any New Mexico
18 income tax liability, the tax credit may be refunded to that
19 person.

20 F. A husband and wife who file separate returns for
21 a taxable year in which they could have filed a joint return
22 may each claim only one-half of the credit allowed pursuant to
23 Subsection A of this section that would have been allowed on a
24 joint return.

25 G. The tax credit allowed pursuant to Subsection B

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1 of this section may only be deducted from a taxpayer's
2 corporate income tax liability for the taxable year. Any
3 portion of the maximum credit provided by Subsection B of this
4 section that remains unused at the end of the taxpayer's
5 taxable year may be carried forward for three consecutive
6 taxable years; provided that the total credits claimed under
7 this section shall not exceed the maximum allowable pursuant to
8 Subsection B of this section. Any portion of the maximum
9 credit provided by Subsection B of this section that remains
10 unused at the end of the third taxable year may be refunded to
11 the taxpayer.

12 H. If a person claiming a tax credit pursuant to
13 Subsection B of this section does not have any corporate income
14 tax liability, the tax credit may be refunded to that person.

15 Section 4. INCOME TAX--CORPORATE INCOME TAX--CREDIT FOR
16 PHOTOVOLTAIC SYSTEM INSTALLATION.--

17 A. A person who files an individual New Mexico
18 income tax return for any taxable year beginning on or after
19 January 1, 2007 and ending on or before December 31, 2016, and
20 who installs a photovoltaic system after July 1, 2005 in a
21 residence in New Mexico owned by that person may apply for, and
22 the department may allow, a credit in an amount equal to three
23 dollars fifty cents (\$3.50) per nameplate direct current
24 wattage of that photovoltaic system, provided that:

- 25 (1) the maximum tax credit that may be claimed

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1 by the taxpayer pursuant to this subsection shall not exceed
2 ten thousand dollars (\$10,000); and

3 (2) the department shall not allow a tax
4 credit pursuant to this subsection if allowing that tax credit
5 would cause the aggregate amount of tax credits allowed
6 pursuant to this subsection to exceed two million dollars
7 (\$2,000,000).

8 B. A person that files a corporate income tax
9 return for any taxable year beginning on or after January 1,
10 2007 and ending on or before December 31, 2016, and that
11 installs a photovoltaic system after July 1, 2005 in a facility
12 in New Mexico that is owned by that person may apply for, and
13 the department may allow, a credit in an amount equal to one
14 dollar fifty cents (\$1.50) per nameplate direct current wattage
15 of that photovoltaic system, provided that:

16 (1) the maximum tax credit that may be claimed
17 by the taxpayer pursuant to this subsection shall not exceed
18 seventy-five thousand dollars (\$75,000); and

19 (2) the department shall not allow a tax
20 credit pursuant to this subsection if allowing that tax credit
21 would cause the aggregate amount of tax credits allowed
22 pursuant to this subsection to exceed one million dollars
23 (\$1,000,000).

24 C. The tax credit allowed pursuant to Subsection A
25 of this section shall be deducted from a taxpayer's New Mexico

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1 income tax liability for the taxable year. Any portion of the
2 maximum credit provided by Subsection A of this section that
3 remains unused at the end of the taxpayer's taxable year may be
4 carried forward for three consecutive taxable years; provided
5 that the total credits claimed under this section shall not
6 exceed the maximum allowable pursuant to Subsection A of this
7 section. Any portion of the maximum credit provided by
8 Subsection A of this section that remains unused at the end of
9 the third taxable year may be refunded to the taxpayer.

10 D. If a person claiming a tax credit pursuant to
11 Subsection A of this section does not have any New Mexico
12 income tax liability, the tax credit may be refunded to that
13 person.

14 E. A husband and wife who file separate returns for
15 a taxable year in which they could have filed a joint return
16 may each claim only one-half of the credit allowed pursuant to
17 Subsection A of this section that would have been allowed on a
18 joint return.

19 F. The tax credit allowed pursuant to Subsection B
20 of this section shall be deducted from the taxpayer's corporate
21 income tax liability for the taxable year. Any portion of the
22 maximum credit provided by Subsection B of this section that
23 remains unused at the end of the taxpayer's taxable year may be
24 carried forward for three consecutive taxable years; provided
25 that the total credits claimed under this section shall not

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1 exceed the maximum allowable pursuant to Subsection B of this
2 section. Any portion of the maximum credit provided by
3 Subsection B of this section that remains unused at the end of
4 the third taxable year may be refunded to the taxpayer.

5 G. If a person claiming a tax credit pursuant to
6 Subsection B of this section does not have any corporate income
7 tax liability, the tax credit may be refunded to that person.

8 Section 5. ADMINISTRATION.--

9 A. The energy, minerals and natural resources
10 department shall adopt rules for administration of the
11 provisions of the Solar Thermal and Photovoltaic System Tax Act
12 no later than September 30, 2005.

13 B. A solar thermal system or a photovoltaic system
14 for which a tax credit is allowed under the Solar Thermal and
15 Photovoltaic System Tax Act must be certified by the energy,
16 minerals and natural resources department to meet technical
17 requirements established by the energy, minerals and natural
18 resources department. Technical requirements may include, but
19 are not limited to, requirements relating to safety, code and
20 standards compliance, solar collector orientation and sun
21 exposure, minimum system sizes, system applications and lists
22 of eligible components. The energy, minerals and natural
23 resources department shall adopt and publish on its web site an
24 initial description of technical requirements no later than
25 August 1, 2005. The energy, minerals and natural resources

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1 department may modify those requirements as needed to ensure a
2 high level of system quality and performance.

3 C. The taxation and revenue department shall
4 prescribe application forms for the tax credits allowed
5 pursuant to the Solar Thermal and Photovoltaic System Tax Act
6 no later than December 31, 2006.

7 Section 6. REPORT TO APPROPRIATE INTERIM COMMITTEE.--
8 Beginning in 2008, the energy, minerals and natural resources
9 department shall report to the appropriate interim committee of
10 the legislature every two years and provide an update of the
11 status of the Solar Thermal and Photovoltaic Systems Tax Act
12 and recommendations for modifications of that act.

13 Section 7. APPLICABILITY.--The provisions of this act
14 apply to taxable years beginning on or after January 1, 2007.