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HOUSE BILL 591

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY
GARY K. KING

AN ACT

RELATING TO TAXATION; PROVIDING A TAX CREDIT FOR AGRICULTURAL
WATER CONSERVATION EXPENSES AGAINST PERSONAL AND CORPORATE
INCOME TAX LIABILITY.

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 INDIVIDUAL TAX CREDIT--AGRICULTURAL WATER
CONSERVATION EXPENSES. --

A. To encourage the conservation of water in
agricultural activities, any taxpayer who files an individual
New Mexico income tax return and who is not the dependent of
another individual may claim a credit against his income tax
liability equal to seventy-five percent of his incurred
expenses, not to exceed a maximum credit of fifty thousand

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1 dollars (\$50,000), for purchasing and installing equipment for
2 an agricultural water conservation system in the year in which
3 the expenses are incurred.

4 B. To qualify for the credit pursuant to this
5 section:

6 (1) the agricultural water conservation system
7 equipment must be primarily designed to substantially conserve
8 water on land in this state that is owned by the taxpayer and
9 used by the taxpayer or the taxpayer's tenant to:

10 (a) produce crops, fruits or other
11 agricultural products;

12 (b) raise, harvest or grow trees; or

13 (c) sustain livestock;

14 (2) the expense must be incurred after January
15 1, 1998 and must be consistent with an effective water
16 conservation plan that the taxpayer has filed with the United
17 States department of agriculture natural resources conservation
18 service; and

19 (3) the land on which the water conservation
20 system equipment is located must be located in this state and be
21 entirely in an area identified, in the taxable year or in any
22 preceding taxable year, as an area of extreme drought severity
23 on the Palmer drought severity index published by the national
24 oceanic and atmospheric administration.

25 C. Co-owners of the land on which the water

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1 conservation system equipment is installed, including partners
2 in a partnership and shareholders of an S corporation, as
3 defined in Section 1361 of the Internal Revenue Code, may each
4 claim only the pro rata share of the credit allowed under this
5 section based on the ownership interest. The total of the
6 credits allowed all such owners may not exceed the amount that
7 would have been allowed a sole owner of the land.

8 D. A husband and wife who file separate returns for
9 a taxable year in which they could have filed a joint return may
10 each claim only one-half of the credit that would have been
11 allowed on a joint return.

12 E. If the allowable tax credit in the year the
13 credit becomes claimable exceeds the taxes otherwise due under
14 the Income Tax Act on the taxpayer's income, or if there are no
15 income taxes due from the taxpayer, the taxpayer may carry
16 forward the amount of the credit not used in that year to offset
17 taxes under the Income Tax Act for not more than five
18 consecutive taxable years' income tax liability. This credit
19 may only be deducted from the taxpayer's income tax liability.

20 F. This credit may not be claimed if any deduction
21 for such expenses is claimed under the Internal Revenue Code.

22 G. The soil and water conservation bureau of the
23 forestry division of the energy, minerals and natural resources
24 department shall promulgate rules and regulations to implement
25 this section and establish guidelines to determine whether water

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1 conservation system equipment qualifies for the credit available
2 under this section."

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

5 "[NEW MATERIAL] CORPORATE TAX CREDIT--AGRICULTURAL WATER
6 CONSERVATION EXPENSES. --

7 A. To encourage the conservation of water in
8 agricultural activities, any taxpayer who files a New Mexico
9 corporate income tax return may claim a credit against its
10 corporate income tax liability equal to seventy-five percent of
11 its incurred expenses, not to exceed a maximum credit of fifty
12 thousand dollars (\$50,000), for purchasing and installing
13 equipment for an agricultural water conservation system.

14 B. To qualify for the credit pursuant to this
15 section:

16 (1) the agricultural water conservation system
17 equipment must be primarily designed to substantially conserve
18 water on land that is owned by the taxpayer and used by the
19 taxpayer or the taxpayer's tenant to:

20 (a) produce crops, fruits or other
21 agricultural products;

22 (b) raise, harvest or grow trees; or

23 (c) sustain livestock;

24 (2) the expense must be incurred after January
25 1, 1998 and must be consistent with an effective water

1 conservation plan that the taxpayer has filed with the United
2 States department of agriculture natural resources conservation
3 service; and

4 (3) the land on which the water conservation
5 system equipment is located must be located in this state and be
6 entirely in an area that has been identified, in the taxable
7 year or in any preceding taxable year, as an area of extreme
8 drought severity on the Palmer drought severity index published
9 by the national oceanic and atmospheric administration.

10 C. Co-owners of the land on which the water
11 conservation system equipment is installed, including corporate
12 partners in a partnership, may each claim only the pro rata
13 share of the credit allowed under this section based on the
14 ownership interest. The total of the credits allowed all such
15 owners may not exceed the amount that would have been allowed a
16 sole owner of the land.

17 D. If the allowable tax credit in the year the
18 credit becomes claimable exceeds the taxes otherwise due under
19 the Corporate Income and Franchise Tax Act on the taxpayer's
20 corporate income, or if there are not taxes due under the
21 Corporate Income and Franchise Tax Act, the taxpayer may carry
22 forward the amount of the credit not used to offset taxes under
23 the Corporate Income and Franchise Tax Act for not more than
24 five consecutive taxable years' corporate income tax liability.

25 E. The credit may not be claimed if any allowance

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1 for state tax purposes is taken by the taxpayer for a deduction
2 for such expenses allowed by the Internal Revenue Code.

3 F. The soil and water conservation bureau of the
4 forestry division of the energy, minerals and natural resources
5 department shall promulgate rules and regulations to implement
6 this section and establish guidelines to determine whether water
7 conservation system equipment qualifies for the credit available
8 under this section."

9 Section 3. APPLICABILITY.--The provisions of this act
10 apply to taxable years beginning on and after January 1, 1998.

11 Section 4. EFFECTIVE DATE.--The effective date of the
12 provisions of this act is July 1, 1998.