SENATE BILL 16

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

Peter Wirth

AN ACT

RELATING TO TAXATION; CREATING THE WATER HARVESTING INCOME TAX CREDIT; AUTHORIZING THE TAXATION AND REVENUE DEPARTMENT TO REVEAL AGGREGATE TAX CREDIT OR DEDUCTION INFORMATION TO FACILITATE A REPORT TO LEGISLATIVE COMMITTEES.

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

SECTION 1. Section 7-1-8.8 NMSA 1978 (being Laws 2009, Chapter 243, Section 10) is amended to read:

"7-1-8.8. INFORMATION THAT MAY BE REVEALED TO OTHER STATE AGENCIES AND LEGISLATIVE COMMITTEES.--An employee of the department may reveal to:

A. a committee of the legislature for a valid legislative purpose, return information concerning any tax or fee imposed pursuant to the Cigarette Tax Act;

B. the revenue stabilization and tax policy..."
committee and the legislative finance committee, return information necessary to facilitate the compilation of a report to those committees on the effectiveness of a tax credit or deduction that is required pursuant to law; provided that the return information shall not include a taxpayer's name, address or government-issued identification number;

[B-] C. the attorney general, return information acquired pursuant to the Cigarette Tax Act for purposes of Section 6-4-13 NMSA 1978 and the master settlement agreement defined in Section 6-4-12 NMSA 1978;

[D-] the commissioner of public lands, return information for use in auditing that pertains to rentals, royalties, fees and other payments due the state under land sale, land lease or other land use contracts;

[E-] the secretary of human services or the secretary's delegate, under a written agreement with the department, the last known address with date of all names certified to the department as being absent parents of children receiving public financial assistance, but only for the purpose of enforcing the support liability of the absent parents by the child support enforcement division or any successor organizational unit;

[F-] the department of information technology, by electronic media, a database updated quarterly that contains the names, addresses, county of address and taxpayer
identification numbers of New Mexico personal income tax
filers, but only for the purpose of producing the random jury
list for the selection of petit or grand jurors for the state
courts pursuant to Section 38-5-3 NMSA 1978;

[F. G.] the state courts, the random jury lists
produced by the department of information technology under
Subsection [E] F of this section;

[G. H.] the director of the New Mexico department
of agriculture or the director's authorized representative,
upon request of the director or representative, the names and
addresses of all gasoline or special fuel distributors,
wholesalers and retailers;

[H. I.] the public regulation commission, return
information with respect to the Corporate Income and Franchise
Tax Act required to enable the commission to carry out its
duties;

[I. J.] the state racing commission, return
information with respect to the state, municipal and county
gross receipts taxes paid by racetracks;

[J. K.] the gaming control board, tax returns of
license applicants and their affiliates as provided in
Subsection E of Section 60-2E-14 NMSA 1978;

[K. L.] the director of the workers' compensation
administration or to the director's representatives authorized
for this purpose, return information to facilitate the
identification of taxpayers that are delinquent or noncompliant
in payment of fees required by Section 52-1-9.1 or 52-5-19 NMSA
1978; and

[M.] the secretary of workforce solutions or the
secretary's delegate, return information for use in enforcement
of unemployment insurance collections pursuant to the terms of
a written reciprocal agreement entered into by the department
with the secretary of workforce solutions for exchange of
information."

SECTION 2. A new section of the Income Tax Act is enacted
to read:

"[NEW MATERIAL] WATER HARVESTING INCOME TAX CREDIT.--
A. A taxpayer who is not a dependent of another
individual and who purchases and installs a certified water
harvesting system after January 1, 2014 and before December 31,
2024 in a residence or business in New Mexico owned by that
taxpayer may apply for a tax credit against the taxpayer's tax
liability imposed pursuant to the Income Tax Act in an amount
up to twenty percent of the purchase and installation costs of
the system. The tax credit provided by this section may be
referred to as the "water harvesting income tax credit".

B. The purpose of the water harvesting income tax
credit is to provide an incentive for homeowners and businesses
to use harvested water for future use.

C. The water harvesting income tax credit shall not
exceed five thousand dollars ($5,000). The department shall allow a water harvesting income tax credit only for a water harvesting system certified by the regulation and licensing department.

D. The department may allow a maximum annual aggregate of two million dollars ($2,000,000) in water harvesting income tax credits per year. Applications for the credit shall be considered in the order received by the department.

E. A taxpayer may claim a water harvesting income tax credit in the taxable year in which the taxpayer purchases and installs a water harvesting system. To receive a water harvesting income tax credit, a taxpayer shall apply to the department on forms and in the manner prescribed by the department. The application shall include a certification made pursuant to Subsection I of this section.

F. A portion of the water harvesting income tax credit that remains unused in a taxable year may be carried forward for a maximum of ten consecutive taxable years following the taxable year in which the credit originates until fully expended.

G. A husband and wife filing separate returns for a taxable year for which they could have filed a joint return may each claim only one-half of the water harvesting income tax credit that would have been claimed on a joint return.
H. A taxpayer may be allocated the right to claim a water harvesting income tax credit in proportion to the taxpayer's ownership interest if the taxpayer owns an interest in a business entity that is taxed for federal income tax purposes as a partnership and that business entity has met all of the requirements to be eligible for the credit. The total credit claimed by all members of the partnership or limited liability company shall not exceed the allowable credit pursuant to Subsection C of this section.

I. Prior to July 1, 2014, the regulation and licensing department, in consultation with the state engineer, shall adopt rules establishing procedures to provide certification of water harvesting systems for purposes of obtaining a water harvesting income tax credit. The rules shall address technical specifications and requirements relating to safety, code and standards compliance, minimum and maximum system sizes, system applications and lists of eligible components. The regulation and licensing department may modify the specifications and requirements as necessary to maintain a high level of system quality and performance.

J. A taxpayer allowed a water harvesting income tax credit pursuant to this section shall report the amount of the credit to the department in a manner required by the department.

K. The department shall compile an annual report on
the water harvesting income tax credit pursuant to this section that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the effectiveness of the credit. Beginning in 2019 and five years thereafter that the credit is in effect, the department shall compile and present the annual reports to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the credit and whether the credit is performing the purpose for which it was created.

L. As used in this section, "water harvesting system" is a system that is designed to provide for the collection of rainwater or snowmelt from the rooftop of a building and is capable of storing the rainwater or snowmelt for future use."

SECTION 3. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2014.