

SENATE BILL 79

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

Mimi Stewart

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO TAXATION; CREATING THE SOLAR MARKET DEVELOPMENT
INCOME TAX CREDIT; REPEALING THE EXPIRED SOLAR MARKET
DEVELOPMENT TAX CREDIT.

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

SECTION 1. Section 7-2-18.14 NMSA 1978 (being Laws 2006, Chapter 93, Section 1, as amended) is repealed and a new Section 7-2-18.14 NMSA 1978 is enacted to read:

"7-2-18.14. [NEW MATERIAL] SOLAR MARKET DEVELOPMENT
INCOME TAX CREDIT.--

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A. A taxpayer who is not a dependent of another individual and who purchases and installs a solar thermal system or a photovoltaic system in a residence, business or agricultural enterprise after January 1, 2018 may apply for, and the department may allow, a credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act in an amount provided in Subsection C of this section. The tax credit provided by this section may be referred to as the "solar market development income tax credit".

B. The purpose of the solar market development income tax credit is to encourage the installation of solar thermal and photovoltaic systems in residences, businesses and agricultural enterprises.

C. The department may allow a solar market development income tax credit in the following amounts of the purchase and installation costs of a solar thermal or photovoltaic system:

(1) if the system is installed prior to January 1, Sfl→2021 2023←Sfl, up to ten percent of the purchase and installation costs of the system; Sfl→and←Sfl

(2) if the system is installed on or after January 1, Sfl→2021 2023←Sfl and prior to January 1, Sfl→2024 2028←Sfl, up to Sfl→nine eight ←Sfl percent of the purchase and installation costs of the systeSfl→m; .←Sfl

Sfl→(3) if the system is installed on or

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~~after January 1, 2024 and prior to January 1, 2027, up to eight percent of the purchase and installation costs of the system;~~

~~(4) if the system is installed on or after January 1, 2027 and prior to January 1, 2030, up to seven percent of the purchase and installation costs of the system;~~

~~and~~

~~(5) if the system is installed on or after January 1, 2030 and prior to January 1, 2033, up to six percent of the purchase and installation costs of the system.~~ ←Sf1

D. The solar market development income tax credit shall not exceed nine thousand dollars (\$9,000). The department shall allow a solar market development income tax credit only for solar thermal and photovoltaic systems certified pursuant to Subsection J of this section.

E. The department may allow a maximum annual aggregate of five million dollars (\$5,000,000) in solar market development income tax credits per year. Completed applications for the credit shall be considered in the order received by the department.

F. A taxpayer may claim a solar market development income tax credit for the taxable year in which the taxpayer purchases and installs a solar thermal or photovoltaic system. To receive a solar market development income tax credit, a taxpayer shall apply to the department on forms and in the manner prescribed by the department within twelve months

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following the calendar year in which the system was installed. The application shall include a certification made pursuant to Subsection J of this section.

G. That portion of a solar market development income tax credit that exceeds a taxpayer's tax liability in the taxable year in which the credit is claimed may be carried forward for a maximum of five consecutive taxable years.

H. Married individuals filing separate returns for a taxable year for which they could have filed a joint return may each claim only one-half of the solar market development income tax credit that would have been claimed on a joint return.

I. A taxpayer may be allocated the right to claim a solar market development 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 or limited liability company 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 this section.

J. The energy, minerals and natural resources department shall adopt rules establishing procedures to provide certification of solar thermal and photovoltaic systems for the purposes of obtaining a solar market development income tax

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credit. The rules shall address technical specifications and requirements relating to safety, code and standards compliance, solar collector orientation and sun exposure, minimum system sizes, system applications and lists of eligible components. The energy, minerals and natural resources department may modify the specifications and requirements as necessary to maintain a high level of system quality and performance.

K. A taxpayer allowed a tax credit pursuant to this section shall report the amount of the credit to the taxation and revenue department in a manner required by that department.

L. The taxation and revenue department shall compile an annual report on the solar market development income tax credit 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 credit. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the tax credit and whether the tax credit is performing the purpose for which it was created.

M. As used in this section:

(1) "photovoltaic system" means an energy system that collects or absorbs sunlight for conversion into electricity; and

(2) "solar thermal system" means an energy

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system that collects or absorbs solar energy for conversion into heat for the purposes of space heating, space cooling or water heating."

SECTION 2. TEMPORARY PROVISION--EXHAUSTION OF CREDITS.--

A. If a taxpayer has met the eligibility requirements to apply for and claim a solar market development tax credit pursuant to Section 7-2-18.14 NMSA 1978 as that section was in effect on December 31, 2016, the taxpayer may claim, and the taxation and revenue department may approve, the credit for those periods, including amounts that may be carried forward pursuant to Section 7-2-18.14 NMSA 1978 as that section was in effect on December 31, 2016.

B. If a taxpayer has claimed and been awarded a solar market development tax credit pursuant to Section 7-2-18.14 NMSA 1978 as that section was in effect on December 31, 2016, but a portion of the credit claimed remains unused, the taxpayer may claim the unused portion, including amounts that could have been carried forward pursuant to Section 7-2-18.14 NMSA 1978 as that section was in effect on December 31, 2016.

SECTION 3. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2018.