

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 75

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

AN ACT

RELATING TO TAXATION; AMENDING THE GEOTHERMAL GROUND-COUPLED
HEAT PUMP TAX CREDITS; REQUIRING REPORTS.

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

SECTION 1. Section 7-2-18.24 NMSA 1978 (being Laws 2009,
Chapter 271, Section 1) is amended to read:

"7-2-18.24. GEOTHERMAL GROUND-COUPLED HEAT PUMP TAX
CREDIT.--

A. A ~~taxpayer~~ person who files an individual New
Mexico income tax return for a taxable year beginning on or
after January 1, ~~[2010 and who]~~ 2011, who is not a dependent of
another taxpayer and who purchases and installs, after January
1, ~~[2010]~~ 2011 but before December 31, ~~[2020]~~ 2021, a
geothermal ground-coupled heat pump in a residence, business or
agricultural enterprise in New Mexico owned by that ~~taxpayer~~

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1 person may apply for, and the department may allow, a tax
2 credit of up to thirty percent of the purchase and installation
3 costs of the system. The credit provided in this section may
4 be referred to as the "geothermal ground-coupled heat pump tax
5 credit". The total geothermal ground-coupled heat pump tax
6 credit allowed to a ~~[taxpayer]~~ person for each building in
7 which a geothermal ground-coupled heat pump is installed and
8 functioning shall not exceed nine thousand dollars (\$9,000).
9 The department shall allow a geothermal ground-coupled heat
10 pump tax credit only for geothermal ground-coupled heat pumps
11 certified by the energy, minerals and natural resources
12 department.

13 B. The purposes of the geothermal ground-coupled
14 heat pump tax credit are to encourage the manufacture, sale,
15 purchase, installation and use of geothermal ground-coupled
16 heat pumps for residential, business or agricultural enterprise
17 uses and to increase the number of people employed to install
18 and maintain geothermal ground-coupled heat pump systems.

19 ~~[B.—A]~~ C. The portion of the geothermal ground-
20 coupled heat pump tax credit that is approved by the department
21 and that remains unused in a taxable year may be carried
22 forward for a maximum of ten consecutive taxable years
23 following the taxable year in which the credit originates until
24 the credit is fully expended.

25 ~~[C.—Prior to July 1, 2010]~~ D. The energy, minerals

1 and natural resources department shall adopt rules establishing
 2 procedures to provide certification of geothermal ground-
 3 coupled heat pumps for purposes of obtaining a geothermal
 4 ground-coupled heat pump tax credit. The rules shall address
 5 technical specifications and requirements relating to safety,
 6 building code and standards compliance, minimum system sizes,
 7 system applications and lists of eligible components. The
 8 energy, minerals and natural resources department may modify
 9 the specifications and requirements as necessary to maintain a
 10 high level of system quality and performance. A person seeking
 11 certification of a geothermal ground-coupled heat pump for
 12 purposes of receiving a tax credit shall submit an application
 13 for a certificate to the energy, minerals and natural resources
 14 department.

15 ~~[D.]~~ E. The department may allow, pursuant to the
 16 Income Tax Act and the Corporate Income and Franchise Tax Act,
 17 a maximum annual aggregate of two million dollars (\$2,000,000)
 18 in geothermal ground-coupled heat pump tax credits.

19 Applications for the credit shall be considered in the order
 20 received by the department. If the aggregate amount has been
 21 reached in any calendar year without all applicants receiving
 22 the credit, applicants shall be placed on a list in the order
 23 of the date on which the person's tax return was received by
 24 the department and paid first according to that list in the
 25 subsequent calendar year. The geothermal ground-coupled heat

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1 pump tax credit shall be applied against the person's income
2 tax liability for the taxable year before any other tax credit
3 is applied.

4 ~~[E.]~~ F. A ~~[taxpayer]~~ person who otherwise qualifies
5 and claims a geothermal ground-coupled heat pump tax credit
6 with respect to ~~[property]~~ a residence, business or
7 agricultural enterprise owned by a partnership or other
8 business association of which the ~~[taxpayer]~~ person is a member
9 may claim a credit only in proportion to that ~~[taxpayer's]~~
10 person's interest in the partnership or association. The total
11 credit claimed in the aggregate by all members of the
12 partnership or association with respect to the property shall
13 not exceed the amount of the credit that could have been
14 claimed by a sole owner of the ~~[property]~~ residence, business
15 or agricultural enterprise.

16 ~~[F.]~~ G. A husband and wife who file separate
17 returns for a taxable year in which they could have filed a
18 joint return may each claim only one-half of the credit that
19 would have been allowed on a joint return.

20 H. No later than October 15 of each year, the
21 department and the energy, minerals and natural resources
22 department shall compile a joint report in regard to the
23 geothermal ground-coupled heat pump tax credits provided
24 pursuant to the Income Tax Act and the Corporate Income and
25 Franchise Tax Act for the revenue stabilization and tax policy

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1 committee that includes:

2 (1) the number of people applying for
3 geothermal ground-coupled heat pump tax credits;

4 (2) the number and amount of geothermal
5 ground-coupled heat pump tax credits allowed;

6 (3) the number of new jobs created in New
7 Mexico in the taxable year to install and maintain geothermal
8 ground-coupled heat pump systems; and

9 (4) any other data or information deemed
10 necessary by the taxation and revenue department to aid the
11 committee in determining the effectiveness of the geothermal
12 ground-coupled heat pump tax credits.

13 I. Notwithstanding any other section of law to the
14 contrary, the department may reveal to the revenue
15 stabilization and tax policy committee the number of applicants
16 seeking geothermal ground-coupled heat pump tax credits
17 pursuant to this section and the amount of each credit
18 approved.

19 J. The revenue stabilization and tax policy
20 committee shall review the effectiveness of the geothermal
21 ground-coupled heat pump tax credit every five years beginning
22 in 2014.

23 K. Acceptance by a person of a geothermal ground-
24 coupled heat pump tax credit pursuant to this section is
25 authorization by the person receiving the credit for the

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1 department to reveal information to the legislature necessary
2 to analyze the effectiveness of the geothermal ground-coupled
3 heat pump tax credit.

4 [~~G.~~] L. As used in this section, "geothermal
5 ground-coupled heat pump" means a system that uses energy from
6 the ground, water or, ultimately, the sun for distribution of
7 heating, cooling or domestic hot water; that has either a
8 minimum coefficient of performance of three and four-tenths or
9 an efficiency ratio of sixteen or greater; and that is
10 installed by an accredited installer certified by the
11 international ground source heat pump association."

12 SECTION 2. Section 7-2A-24 NMSA 1978 (being Laws 2009,
13 Chapter 271, Section 2) is amended to read:

14 "7-2A-24. GEOTHERMAL GROUND-COUPLED HEAT PUMP TAX
15 CREDIT.--

16 A. A [~~taxpayer~~] person that files a New Mexico
17 corporate income tax return for a taxable year beginning on or
18 after January 1, [~~2010 and that~~] 2011 and that purchases and
19 installs, after January 1, [~~2010~~] 2011 but before December 31,
20 [~~2020~~] 2021, a geothermal ground-coupled heat pump in a
21 property owned by the [~~taxpayer~~] person may claim against the
22 [~~taxpayer's~~] person's corporate income tax liability, and the
23 department may allow, a tax credit of up to thirty percent of
24 the purchase and installation costs of the system. The credit
25 provided in this section may be referred to as the "geothermal

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1 ground-coupled heat pump tax credit". The total geothermal
2 ground-coupled heat pump tax credit allowed to a [~~taxpayer~~
3 person shall not exceed nine thousand dollars (\$9,000) for each
4 building in which a geothermal ground-coupled heat pump is
5 installed and functioning. The department shall allow a
6 geothermal ground-coupled heat pump tax credit only for
7 geothermal ground-coupled heat pumps certified by the energy,
8 minerals and natural resources department.

9 B. The purposes of the geothermal ground-coupled
10 heat pump tax credit are to encourage the manufacture, sale,
11 purchase, installation and use of geothermal ground-coupled
12 heat pumps for residential, business or agricultural enterprise
13 uses and to increase the number of people employed to install
14 and maintain geothermal ground-coupled heat pump systems.

15 [~~B.—A~~] C. The portion of the geothermal ground-
16 coupled heat pump tax credit that is approved by the department
17 and that remains unused in a taxable year may be carried
18 forward for a maximum of ten consecutive taxable years
19 following the taxable year in which the credit originates until
20 the credit is fully expended.

21 [~~C. Prior to July 1, 2010~~] D. The energy, minerals
22 and natural resources department shall adopt rules establishing
23 procedures to provide certification of geothermal ground-
24 coupled heat pumps for purposes of obtaining a geothermal
25 ground-coupled heat pump tax credit. The rules shall address

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1 technical specifications and requirements relating to safety,
2 building code and standards compliance, minimum system sizes,
3 system applications and lists of eligible components. The
4 energy, minerals and natural resources department may modify
5 the specifications and requirements as necessary to maintain a
6 high level of system quality and performance. A person seeking
7 certification of a geothermal ground-coupled heat pump for
8 purposes of receiving a tax credit shall submit an application
9 for a certificate to the energy, minerals and natural resources
10 department.

11 ~~[D-]~~ E. The department may allow, pursuant to the
12 Income Tax Act and the Corporate Income and Franchise Tax Act,
13 a maximum annual aggregate of two million dollars (\$2,000,000)
14 in geothermal ground-coupled heat pump tax credits.
15 Applications for the credit shall be considered in the order
16 received by the department. If the aggregate amount has been
17 reached in any calendar year without all applicants receiving
18 the credit, applicants shall be placed on a list as priorities
19 in the subsequent calendar year. The geothermal ground-coupled
20 heat pump tax credit shall be applied against the person's
21 corporate income and franchise tax liabilities for the taxable
22 year before any other tax credit is applied.

23 F. No later than October 15 of each year, the
24 department and the energy, minerals and natural resources
25 department shall compile a joint report in regard to the

1 geothermal ground-coupled heat pump tax credits provided
2 pursuant to the Income Tax Act and the Corporate Income and
3 Franchise Tax Act for the revenue stabilization and tax policy
4 committee that includes:

5 (1) the number of people applying for
6 geothermal ground-coupled heat pump tax credits;

7 (2) the number and amount of geothermal
8 ground-coupled heat pump tax credits allowed;

9 (3) the number of new jobs created in New
10 Mexico in the taxable year to install and maintain geothermal
11 ground-coupled heat pump systems; and

12 (4) any other data or information deemed
13 necessary by the taxation and revenue department to aid the
14 committee in determining the effectiveness of the geothermal
15 ground-coupled heat pump tax credits.

16 G. Notwithstanding any other section of law to the
17 contrary, the department may reveal to the revenue stabilizaton
18 and tax policy committee the number of applicants for the
19 geothermal ground-coupled heat pump tax credit, the amount of
20 each credit approved, the number of credits transferred and the
21 amount of a transferred credit claimed pursuant to this
22 section.

23 H. The revenue stabilization and tax policy
24 committee shall review the effectiveness of the geothermal
25 ground-coupled heat pump tax credit every five years beginning

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1 in 2014.

2 I. Acceptance by a person of a geothermal ground-
3 coupled heat pump tax credit pursuant to this section is
4 authorization by the person receiving the credit for the
5 department to reveal information to the legislature necessary
6 for analyzing the effectiveness of the geothermal ground-
7 coupled heat pump tax credit.

8 [~~E.~~] J. As used in this section, "geothermal
9 ground-coupled heat pump" means a reversible refrigerator
10 device that provides space heating, space cooling, domestic hot
11 water, processed hot water, processed chilled water or any
12 other application where hot air, cool air, hot water or chilled
13 water is required and that utilizes ground water or water
14 circulating through pipes buried in the ground as a condenser
15 in the cooling mode and an evaporator in the heating mode."

16 **SECTION 3. APPLICABILITY.**--The provisions of this act are
17 applicable to taxable years beginning on or after January 1,
18 2011.

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