

## CHAPTER 314

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**TAXATION**

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**HOUSE BILL 15-1219**

BY REPRESENTATIVE(S) McCann and Becker J., Becker K., Brown, Duran, Esgar, Fields, Ginal, Lontine, Pabon, Priola, Rosenthal, Salazar, Williams, Winter, Hullinghorst, DelGrosso, Kagan, Kraft-Tharp, Mitsch Bush, Pettersen, Primavera; also SENATOR(S) Hodge and Sonnenberg, Aguilar, Carroll, Guzman, Heath, Johnston, Jones, Kefalas, Kerr, Merrifield, Newell, Todd, Ulibarri.

**AN ACT**

**CONCERNING THE ENTERPRISE ZONE INVESTMENT TAX CREDIT FOR RENEWABLE ENERGY PROJECTS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1. Legislative declaration.** The general assembly finds and declares that the goal of the tax expenditure in this act is to allow for the reduction in the state's overall liability for certified enterprise zone investment tax credits by allowing taxpayers who make renewable energy investments in an enterprise zone to elect to receive a refund from the state equal to eighty percent of their tax credit in amounts that may be up to seven hundred fifty thousand dollars annually, foregoing twenty percent of the credit for the ability to receive the refund. This effectively reduces the state's liability for future enterprise zone investment tax credit carryovers by twenty percent and helps Colorado remain competitive with neighboring renewable energy markets. The general assembly further finds and declares that this change in tax policy is intended to increase renewable energy investment and thus increase associated jobs and expand the tax base in rural Colorado.

**SECTION 2.** In Colorado Revised Statutes, 39-30-104, **amend** (2.7) and (2.8); and **add** (2.6) as follows:

**39-30-104. Credit against tax - investment in certain property - definitions.**  
(2.6) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (2.6) AND NOTWITHSTANDING ANY OTHER PROVISION IN THIS SECTION, IN EACH INCOME TAX YEAR COMMENCING ON OR AFTER JANUARY 1, 2015, BUT BEFORE JANUARY 1, 2021, A TAXPAYER WHO PLACES A NEW RENEWABLE ENERGY INVESTMENT IN SERVICE ON

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

OR AFTER JANUARY 1, 2015, BUT BEFORE JANUARY 1, 2021, THAT RESULTS IN A CREDIT PURSUANT TO SUBSECTION (1) OF THIS SECTION MAY ELECT TO RECEIVE A REFUND OF EIGHTY PERCENT OF THE AMOUNT OF SUCH CREDIT AS SPECIFIED IN THIS PARAGRAPH (a) AND FOREGO THE REMAINING TWENTY PERCENT AS A COST OF SUCH ELECTION. IF EIGHTY PERCENT OF THE AMOUNT OF THE CREDIT IN SUBSECTION (1) OF THIS SECTION IS:

(I) SEVEN HUNDRED FIFTY THOUSAND DOLLARS OR LESS, THE TAXPAYER RECEIVES THE FULL REFUND IN THE FIRST TAX YEAR; OR

(II) MORE THAN SEVEN HUNDRED FIFTY THOUSAND DOLLARS, THE TAXPAYER ANNUALLY RECEIVES A REFUND NOT TO EXCEED SEVEN HUNDRED FIFTY THOUSAND DOLLARS PER INCOME TAX YEAR UNTIL EIGHTY PERCENT OF THE AMOUNT OF THE CREDIT IN SUBSECTION (1) OF THIS SECTION FOR THE NEW RENEWABLE ENERGY INVESTMENT DESCRIBED IN THE FINAL CERTIFICATION IS COMPLETELY REFUNDED TO THE TAXPAYER.

(b) A TAXPAYER MAY MAKE THE ELECTION ALLOWED IN PARAGRAPH (a) OF THIS SUBSECTION (2.6) FOR MORE THAN ONE NEW RENEWABLE ENERGY INVESTMENT PER INCOME TAX YEAR. IF A TAXPAYER MAKES AN ELECTION ALLOWED IN PARAGRAPH (a) OF THIS SUBSECTION (2.6) FOR MORE THAN ONE NEW RENEWABLE ENERGY INVESTMENT, THEN THE TAXPAYER MAY ONLY RECEIVE THE REFUND ALLOWED IN SAID PARAGRAPH (a) FOR ANY SUBSEQUENT NEW RENEWABLE ENERGY INVESTMENT AFTER THE EIGHTY PERCENT OF THE AMOUNT OF THE CREDIT FOR THE PREVIOUS NEW RENEWABLE ENERGY INVESTMENT IS COMPLETELY REFUNDED TO THE TAXPAYER. UNDER NO CIRCUMSTANCES MAY A TAXPAYER MAKING THE REQUIRED ELECTION SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (2.6) RECEIVE REFUNDS ALLOWED PURSUANT TO THIS SUBSECTION (2.6) TOTALING MORE THAN SEVEN HUNDRED FIFTY THOUSAND DOLLARS PER INCOME TAX YEAR.

(c) THE TAXPAYER MAKES AN ELECTION DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (2.6) BY FILING AN ELECTION STATEMENT ON SUCH FORM AS PRESCRIBED BY THE DEPARTMENT OF REVENUE NOT LATER THAN THE DUE DATE, INCLUDING EXTENSIONS, FOR FILING THE TAX RETURN FOR THE TAXABLE YEAR DURING WHICH THE NEW RENEWABLE ENERGY INVESTMENT DESCRIBED IN THE FINAL CERTIFICATION IS PLACED INTO SERVICE.

(d) THE ELECTION DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (2.6) ONLY APPLIES TO THE RENEWABLE ENERGY INVESTMENT DESCRIBED IN THE FINAL CERTIFICATION.

(e) THE LIMITATIONS ON INVESTMENT TAX CREDIT CARRYOVERS SPECIFIED IN SUBSECTIONS (2) AND (2.5) OF THIS SECTION DO NOT APPLY TO ANY CREDIT FOR WHICH A TAXPAYER ELECTS TO SEEK A REFUND PURSUANT TO THIS SUBSECTION (2.6). THE REFUND SPECIFIED IN THIS SUBSECTION (2.6) IS IN ADDITION TO ANY OTHER CREDITS THAT A TAXPAYER MAY CLAIM FOR OTHER RENEWABLE ENERGY INVESTMENTS PURSUANT TO THIS SECTION.

(f) FOR PURPOSES OF THIS SUBSECTION (2.6), UNLESS THE CONTEXT OTHERWISE REQUIRES:

(I) "FINAL CERTIFICATION" MEANS A DOCUMENT PREPARED BY THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT AND PROVIDED TO THE TAXPAYER GRANTING APPROVAL FOR A PROJECT AFTER IT IS PLACED IN SERVICE.

(II) "TAXPAYER" MEANS THE ENTIRE AFFILIATED GROUP IF THE TAXPAYER IS PART OF AN AFFILIATED GROUP.

(2.7) (a) The Colorado economic development commission shall annually post on its web site or on the Colorado office of economic development's web site the following information regarding any enterprise zone investment tax credit certified under this section:

(a) (I) The enterprise zone for the certified credit;

(b) (II) The name of the taxpayer or business;

(c) (III) The type of business;

(d) (IV) The tax year for which the credit is certified;

(e) (V) The total qualified investment reported;

(f) (VI) Whether the credit is for a renewable energy investment as defined in subsection (2.8) of this section;

(VII) THE NUMBER OF EMPLOYEES OR CONTRACTORS HIRED FOR A QUALIFIED INVESTMENT;

(VIII) THE NUMBER OF CONSTRUCTION PERSONNEL HIRED FOR A QUALIFIED INVESTMENT;

(IX) THE AVERAGE SALARY OR HOURLY WAGE OF THE EMPLOYEES, CONTRACTORS, AND CONSTRUCTION PERSONNEL HIRED FOR A QUALIFIED INVESTMENT;

(X) ANY LANDOWNER LEASE PAYMENTS MADE OR LAND PURCHASED FOR A QUALIFIED INVESTMENT;

(XI) THE ESTIMATED TAX REVENUES THE STATE AND LOCAL GOVERNMENTS WILL RECEIVE AS A RESULT OF THE QUALIFIED INVESTMENT;

(XII) ANY OTHER ECONOMIC BENEFITS RESULTING FROM THE QUALIFIED INVESTMENT;

(g) (XIII) The amount of the qualified investment that qualifies for the credit;

(h) (XIV) The calculated credit; and

(i) (XV) The county where the qualified investment is made.

(b) THE TAXPAYER WHO MADE THE QUALIFIED INVESTMENT SHALL USE

REASONABLE EFFORTS TO OBTAIN, ESTIMATE, AND PROVIDE TO THE COLORADO ECONOMIC DEVELOPMENT COMMISSION THE INFORMATION REQUIRED TO BE REPORTED PURSUANT TO THIS SUBSECTION (2.7).

(c) NOTWITHSTANDING SECTION 24-1-136 (11), C.R.S., NO LATER THAN NOVEMBER 1, 2020, AND EVERY NOVEMBER 1 THEREAFTER, THE COLORADO ECONOMIC DEVELOPMENT COMMISSION SHALL POST ON ITS WEB SITE OR ON THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT'S WEB SITE THE LEVEL OF RENEWABLE ENERGY INVESTMENT ON AND AFTER THE EFFECTIVE DATE OF SUBSECTION (2.6) OF THIS SECTION.

(2.8) For purposes of this section, "renewable energy investment" means an investment that qualifies for the credit specified in paragraph (a) of subsection (1) of this section for ~~solar thermal electric, photovoltaic, landfill gas, wind, biomass, hydroelectric, geothermal electric, recycled energy, anaerobic digestion, or renewable fuel cell~~ projects THAT GENERATE ELECTRICITY FROM ELIGIBLE ENERGY RESOURCES AS DEFINED IN SECTION 40-2-124 (1), C.R.S.

**SECTION 3. Appropriation.** (1) For the 2015-16 state fiscal year, \$33,000 is appropriated to the department of revenue for use by the taxation business group. This appropriation is from the general fund. To implement this act, the group may use this appropriation as follows:

- (a) \$31,800 for CITA annual maintenance and support; and
- (b) \$1,200 for document management.

(2) For the 2015-16 state fiscal year, \$1,200 is appropriated to the department of personnel. This appropriation is from reappropriated funds received from the department of revenue under paragraph (b) of subsection (1) of this section. To implement this act, the department may use this appropriation for operating expenses related to integrated document solutions.

(3) For the 2015-16 state fiscal year, \$20,000 is appropriated to the office of the governor. This appropriation is from the general fund. To implement this act, the office may use this appropriation for administration related to economic development programs.

**SECTION 4. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 5, 2015