

HOUSE BILL NO. 545  
INTRODUCED BY PHILLIPS

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A CREDIT AGAINST INDIVIDUAL AND CORPORATE INCOME TAXES FOR A PERCENTAGE OF EXPENDITURES TO CONDUCT AN ENERGY AUDIT ON BUILDINGS USED IN BUSINESS AND FOR EXPENDITURES ON EQUIPMENT AND GOODS TO IMPLEMENT THE ENERGY AUDIT; ALLOWING CREDIT FOR A PERCENTAGE OF THE ~~AUDIT EXPENDITURE AND IMPLEMENTING EXPENDITURE~~ IN THE SUCCEEDING ~~4~~ 3 YEARS IF ENERGY USE DECREASES EACH YEAR; AMENDING SECTION 15-32-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, ~~AND~~ AND A RETROACTIVE APPLICABILITY DATE, AND TERMINATION DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Credit for business energy audit cost.** (1) As provided in this section, a taxpayer may take a credit against the taxpayer's tax liability under chapter 30 or 31 for a percentage of the taxpayer's expenditure for having an energy audit conducted on PERMANENT buildings OF AT LEAST 5,000 SQUARE FEET owned by the taxpayer that are used for commercial, industrial, or agricultural purposes.

(2) ~~(a)~~ The amount of the credit is ~~20%~~ 5% of the taxpayer's expenditure for the energy audit in the year in which the audit was conducted if the audit includes a reliable baseline of energy used and a clear methodology for quantifying energy used in subsequent years. TO QUALIFY FOR THE CREDIT UNDER THIS SECTION, AN ENERGY AUDIT MUST BE CONDUCTED IN A TAX YEAR THAT BEGINS AFTER DECEMBER 31, 2006, AND BEFORE JANUARY 1, 2009.

~~(b) In each of the succeeding 4 years, if the taxpayer has reduced the energy use of the audited building by at least 5% from the previous year, the taxpayer is entitled to a credit of an additional 20% of the taxpayer's expenditure for the energy audit. The taxpayer shall, on a form developed in cooperation with the department of environmental quality, substantiate the energy reduction required under this subsection (2)(b). The substantiation must comport with the audit conducted under subsection (2)(a). The department may refer questions regarding whether a taxpayer's energy reduction qualifies under this subsection (2)(b) to the department of environmental quality for its advice, and the department of environmental quality shall respond within 60 days.~~

(3) The credit authorized by this section may not be carried forward ~~except as provided in subsection (2)(b)~~ and may not be claimed for any part of an expenditure that was financed or provided by a state, federal, or private energy conservation grant or program.

(4) IF THE CREDIT ALLOWED UNDER THIS SECTION IS CLAIMED BY A SMALL BUSINESS CORPORATION AS DEFINED IN 15-30-1101, A PARTNERSHIP, OR A LIMITED LIABILITY COMPANY AS DEFINED IN 35-8-102, THE CREDIT MUST BE ATTRIBUTED TO SHAREHOLDERS, PARTNERS, OR MEMBERS OR MANAGERS OF A LIMITED LIABILITY COMPANY IN THE SAME PROPORTION USED TO REPORT THE CORPORATION'S, PARTNERSHIP'S, OR LIMITED LIABILITY COMPANY'S INCOME OR LOSS FOR MONTANA INCOME TAX PURPOSES.

**NEW SECTION. Section 2. Credit for property purchased to implement business energy audit.**

(1) As provided in this section, a taxpayer may take a credit against the taxpayer's tax liability under chapter 30 or 31 for a percentage of the taxpayer's expenditure for equipment and goods purchased to implement an energy audit meeting the requirements of [section 1], ~~AS THAT SECTION READ ON DECEMBER 31, 2008.~~

(2) (a) The amount of the credit is ~~20%~~ 5% of the taxpayer's expenditure for equipment and goods purchased to implement the energy audit that are made within 1 year after the audit was conducted pursuant to [section 1]. TO QUALIFY FOR THE CREDIT UNDER THIS SECTION, THE EXPENDITURE FOR EQUIPMENT AND GOODS MUST BE MADE IN A TAX YEAR THAT BEGINS AFTER DECEMBER 31, 2006, AND BEFORE JANUARY 1, 2010.

(b) In each of the succeeding ~~4~~ 3 years, if the taxpayer has reduced the energy use of the audited building by at least 5% from the previous year, the taxpayer is entitled to a credit of an additional ~~20%~~ 5% of the taxpayer's expenditure for equipment and goods purchased to implement the energy audit. The taxpayer shall, on a form developed in cooperation with the department of environmental quality, substantiate the energy reduction required under this subsection (2)(b). The substantiation must comport with the audit conducted under [section 1(2)(a)(2)], ~~AS THAT SECTION READ ON DECEMBER 31, 2008.~~ The department may refer questions regarding whether a taxpayer's energy reduction qualifies under this subsection (2)(b) to the department of environmental quality for its advice, and the department of environmental quality shall respond within 60 days.

(3) The credit authorized by this section may not be carried forward except as provided in subsection (2)(b) and may not be claimed for any part of an expenditure that was financed or provided by a state, federal, or private energy conservation grant or program.

(4) IF THE CREDIT ALLOWED UNDER THIS SECTION IS CLAIMED BY A SMALL BUSINESS CORPORATION AS DEFINED IN 15-30-1101, A PARTNERSHIP, OR A LIMITED LIABILITY COMPANY AS DEFINED IN 35-8-102, THE CREDIT MUST BE ATTRIBUTED TO SHAREHOLDERS, PARTNERS, OR MEMBERS OR MANAGERS OF A LIMITED LIABILITY COMPANY IN THE SAME PROPORTION USED TO REPORT THE CORPORATION'S, PARTNERSHIP'S, OR LIMITED LIABILITY COMPANY'S INCOME OR LOSS FOR MONTANA INCOME TAX PURPOSES.

**Section 3.** Section 15-32-104, MCA, is amended to read:

**"15-32-104. Limitations on deduction and credit.** Tax treatment under 15-32-103, ~~and~~ 15-32-109, ~~[section 1],~~ and ~~[section 2]~~ is limited to persons and firms not primarily engaged in the provision of gas or electricity derived from fossil fuel extraction or conventional hydroelectric development."

NEW SECTION. **Section 4. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 15, chapter 32, part 1, and the provisions of Title 15, chapter 32, part 1, apply to [sections 1 and 2].

NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 6. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2006.

~~NEW SECTION. SECTION 7. TERMINATION. (1) [SECTION 1] AND THE BRACKETED LANGUAGE IN [SECTION 3] TERMINATE DECEMBER 31, 2008.~~

~~(2) [SECTIONS 2 AND 3] TERMINATE DECEMBER 31, 2012.~~

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