
RENEWABLE ENERGY DEVELOPMENT

STATE TAX POLICIES AND INCENTIVES IMPACTING RENEWABLE ENERGY DEVELOPMENT

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State Taxes that Impact Development

Gross Receipts Tax

Varies statewide from 5.125% to 8.6875%

Compensating Tax

New Mexico's Compensating Tax is an excise tax levied on the purchaser of a product or service for using tangible property. The tax applies to imports of factory and office equipment, and more, and it's designed to protect New Mexico businesses from competition from out-of-state businesses that are not subject to a sales or gross receipts tax.

Compensating Tax Rate on Property (Use Tax)

5.125% (7-9-7(A))

Compensating Tax Rate on Service (Use Tax)

5.0% (7-9-7(C))

Property Tax as Percent of Income

1.84 percent

Personal Income Tax

- 1.7 percent for \$0 to \$5,500
- 3.2 percent for \$5,500 to \$11,000
- 4.7 percent for \$11,000 to \$16,000
- 4.9 percent for \$16,000+

Corporate Income Tax

- 4.8 percent from \$0 to \$500K
- 6.4 percent from \$500K to \$1M
- 7.6 percent over \$1M

Sales Tax



Doing Business in Indian Country

5.125 percent

Unemployment Insurance Tax

0.05 percent to 5.4 percent

Gasoline Tax

18.875 cents per gallon

Diesel Tax

22.875 cents per gallon

Legislation authorized the state's Taxation and Revenue Department to enter into tribal cooperative agreements with certain pueblos to collect gross receipts taxes imposed by the pueblos. The state grants a 75 percent credit against the state and local gross receipts tax if a pueblo grants a 25 percent credit against its tax for taxpayers who are subject to both taxes. This allows taxpayers to pay the same tax they would under just state and local taxes.

- *Authorities:* Section 9-11-12.1 NMSA 1978 authorizes the Department to enter into agreements with pueblos, tribes or nations to collect gross receipts tax and Section 7-9-88.1 NMSA 1978 authorizes the tax credits.

Other Exemptions in Indian Country

New Mexico law (NMSA 7-12-4) exempts cigarette sales on reservations from state taxes.

Tax Incentives

- Property Tax Exemption (Solar)
- Advanced Energy Tax Credit
- Production Tax Credit
- Solar Market Development Tax Credit
- Sustainable Building Tax Credit
- Advanced Energy

Property Tax Exemption for Solar Systems

Solar systems are exempt from property tax assessments. The value of a property cannot increase by 3 percent of the previous year's assessment or 6.1 percent of the assessment two years prior, whichever is greater, for the purposes of determining property taxes.

- *Eligible Technologies:* Solar Water Heat, Solar Space Heat and Photovoltaics
- *Applicable Sector:* Residential
- *Authority:* N.M. Stat. § 7-36-21.2

Advanced Energy Tax Credit (Personal and Corporate)

A six percent tax credit against gross receipts, compensating or withholding taxes is available for development and construction costs of solar thermal electric plants and associated storage devices. Systems must be at least 1 MW.

- *Incentive:* 6 percent credit against personal, corporate, gross receipts,



Gross Receipts Deduction

➤ **Gross Receipts Tax Exemption for Sales to Government Entities**

➤ **Solar Gross Receipts Tax Deduction**

➤ **Biomass Equipment and Materials Compensating Tax Deduction**

➤ **Agricultural Biomass Income Tax Credit**

➤ **Geothermal Heat Pump Tax Credit**

compensating or withholding taxes

- *Maximum:* \$60 million
- *Eligible Renewable Technologies:* Solar Thermal Electric, Energy Storage, Geothermal Electric and Photovoltaics
- *Applicable Sectors:* Commercial
- *Authority:* N.M. Stat. § 7-2-18.25 (personal) and N.M. Stat. § 7-9G-2, N.M. State § 62.6.28, and N.M. State § 7-2A-25 (corporate)

Renewable Energy Production Tax Credit (Personal and Corporate)

Tax credits against personal income taxes are available for companies that generate electricity from solar energy. The incentive varies on a scale with an average of \$0.027/kWh for solar.

- *Incentive:* Varying tax credit that is capped at 200,000 MWh annually for ten years for solar electric.
- *Eligible Renewable Technologies:* Solar Thermal Electric, Photovoltaics, Landfill Gas, Biomass, Wind, Municipal Solid Waste and Anaerobic Digestion
- *Expiration:* January 1, 2018
- *Authority:* N.M. Stat. § 7-2-18.18 and N.M. Stat. § 7-2A-19

Solar Market Development Tax Credit (Personal)

A ten percent personal income tax credit is available for New Mexico residents and non-corporate businesses for purchasing and installing PV and solar thermal systems.

- *Incentive:* Ten percent of purchase and installation costs
- *Maximum:* \$9,000
- *Eligible Renewable Technologies:* Solar Water Heat, Photovoltaics, Solar Space Cooling, Solar Space Heating and Solar Thermal Process Heat
- *Authorities:* NM Stat. § 7-2-18.14 and 3.3.28 NMAC (Solar System Certification Requirements)

Sustainable Building Tax Credit (Personal and Corporate)

Personal and corporate tax credits are available for sustainable buildings that can be applied to commercial and residential buildings.

- *Incentive:* Varies depending on the size of the building and LEED certification level
- *Eligible Renewable Technologies:* Passive Solar Space Heat, Solar Water Heat, Solar Space Heat, Photovoltaics, Wind and Daylighting
- *Applicable Sectors:* Commercial, Residential, Nonprofit and Multi-Family Residential
- *Authority:* N.M. Stat. § 7-2-18.19 and N.M. Stat. § 7-2A-21

Advanced Energy Gross Receipts Tax Deduction



In New Mexico, there is a gross receipts tax structure instead of a sales tax for businesses. A 100 percent exemption is available from the sale and installation of eligible facilities.

- *Incentive:* 100 percent of gross receipts up to \$60 million for systems of 1 MW-AC or larger
- *Eligible Renewable Technologies:* Solar Thermal Electric, Photovoltaics, Energy Storage, CHP/Cogeneration and Geothermal Electric
- *Authorities:* N.M. Stat. § 7-9-114 and HB 440 (2011)

Gross Receipts Tax Exemption for Sales of Wind and Solar Systems to Government Entities

Businesses in New Mexico are taxed on the gross amount of business receipts each year (before expenses are deducted). State law allows receipts related to certain wind turbine equipment sales to federal, state or local government entities are exempt from being added to gross receipts.

- *Incentive:* 100 percent gross receipts tax exemption
- *Eligible Renewable Technologies:* Solar Thermal Electric, Photovoltaics and Wind
- *Applicable Sectors:* Federal Government, State Government, Local Government, Construction, Installers/Contractors and Retail Suppliers
- *Authority:* N.M. Stat. § 7-9-53.3

Solar Energy Gross Receipts Tax Deduction

Revenue that businesses generate from the sale and installation of solar systems that provide hot water, electricity or space heat to the property on which it is installed may be deducted from gross receipts before the tax is calculated.

- *Incentive:* 100 percent of gross receipts
- *Eligible Renewable Technologies:* Photovoltaics, Passive Solar Space Heat, Solar Water Heat, Solar Space Heat and Solar Thermal Electric
- *Applicable Sectors:* Commercial, Residential, Construction, Installer/Contractor, Retail Suppliers and Solar Distributors
- *Authorities:* N.M. Stat. § 7-9-112 and NMAC 3.2.247

Biomass Equipment & Materials Compensating Tax Deduction

This sales tax incentive allows businesses to deduct the value of biomass equipment and biomass materials used for the processing of bio-based products and biopower when determining the amount of compensating tax due.

- *Incentive:* 100 percent of value can be deducted when calculating how much Compensating Tax is due
- *Eligible Renewable Technologies:* Biomass, Municipal Solid Waste, Landfill Gas, CHP/Cogeneration, Anaerobic Digestion, Ethanol, Methanol,



Biodiesel, Micro turbines and Hydrogen

- *Applicable Sectors:* Commercial and Industrial
- *Authority:* N.M. Stat. § 7-9-98

Agricultural Biomass Income Tax Credit (Personal and Corporate)

New Mexico provides a tax credit for agricultural biomass that comes from a dairy or feedlot transported to a facility that uses agricultural biomass to make gaseous fuel for commercial use or to generate electricity. Agricultural biomass is defined as wet manure. Unused credits can be carried forward for up to 4 years.

- *Incentive:* \$5 per wet ton up to \$5 million in total credits statewide per year
- *Eligible Renewable Technology:* Biomass
- *Expiration:* December 31, 2019
- *Authority:* N.M. Stat. § 7-2-18.26

For more information visit

<http://www.emnrd.state.nm.us/ECMD/RenewableEnergy/biomass.htm>.

Geothermal Heat Pump Tax Credit (Personal and Corporate)

Tax credits for 30 percent of a system's cost up to \$9,000 can be applied to individual or corporate income taxes for geothermal heat pumps purchased and installed before December 31, 2020. The system must be on property owned by the tax payer, and unused credits can be carried forward for up to ten years.

- *Incentive:* 30 percent of system cost for geothermal heat pumps
- *Maximum Incentive:* \$9,000 per system. The program is capped at \$2 million per year in total personal and corporate tax credits.
- *Eligible Technologies:* Geothermal Heat Pumps
- *Applicable Sectors:* Commercial, Residential and Agricultural
- *System Requirements:* Must have a minimum coefficient of performance of 3.4 or efficiency ratio of 16.
- *Expiration:* December 31, 2020
- *Authorities:* N.M. Stat. § 7-2-18.24 (enacted April 2009) and NMAC 3.3.32 (enacted September 2010)

Alternative Energy Product Manufacturers Tax Credit

A five percent tax credit is available for manufacturing products and components of renewable energy systems.

- *Incentive:* Five percent of qualified expenditures with a five-year tax credit carryforward
- *Eligible Renewable Technologies:* Solar Thermal Electric, Landfill Gas, Photovoltaics, Wind, Biomass Geothermal Electric Fuel Cells, Municipal Solid Waste, Hybrid Electric Vehicles, Batteries, Electric Vehicles, products



- Green Jobs Bonding Act
- Biomass Equipment Tax Deduction

extracted from or secreted by a single cell photosynthetic organism, Anaerobic Digestion and Fuel Cells using Renewable Fuels

- *Applicable Sectors:* Commercial and Industrial
- *Authorities:* N.M. Stat. § 7-9J-1 et seq. and SB 233 (2011)

Green Jobs Bonding Act

New Mexico’s Green Jobs Bonding Act created a green jobs fund to provide for green jobs training programs and procedures for implementing grants to higher education institutions for green jobs training programs, and authorized the issuance of green jobs revenue bonds.

Biomass-Related Equipment Tax Deduction

The value of biomass-related equipment (boilers, furnaces, storage facilities, feedstock processing, etc.)

State-Implemented Financial Incentives and Programs

- Bond Program
- Renewable Energy Zones
- Local Economic Development Act

Energy Efficiency and Renewable Energy Bond Program

This program authorizes up to \$20 million in bonds to finance renewable energy improvements in school and state government buildings.

- *Eligible Renewable Technologies:* Passive Solar Space Heat, Solar Water Heat, Solar Space Heat, Photovoltaics, Wind, Biomass, Fuel Cells, CHP/Cogeneration, Daylighting and Fuel Cells using Renewable Fuels
- *Applicable Sectors:* State government and schools
- *Authority:* N.M. Stat. 6-21D-1 et seq.

Renewable Energy Zones

In 2007, the New Mexico Renewable Energy Transmission Authority was created with passage of HB 188. The Authority’s mission is to help export electricity from wind and solar sources by enabling needed electric transmission. The 7-member authority coordinates with local authorities and can issue bonds to finance and build transmission lines, provided that a minimum of 30 percent of the electricity carried on the lines is from renewable energy. The debts incurred through building the lines are to be repaid by utilities and energy-producing companies that use the lines.

Renewable Portfolio Standard

Investor-owned utilities (IOU): 20 percent by 2020

Rural electric cooperatives: 10 percent by 2020

Carve-outs for IOUs in 2020:

- 20 percent of RPS requirement must come from solar (4 percent of sales)
- 20 percent of RPS requirement must come from wind (4 percent of sales)
- 10 percent of RPS requirement must come from geothermal, biomass, certain hydro facilities and other renewable (2 percent of sales)



Regulatory Policies

- Net Metering
- Interconnection Standards
- Solar Easements and Rights Laws
- Mandatory Utility Green Power Option

- 3 percent of RPS requirement must come from distributed renewables (0.6 percent of sales)

Net Metering

Net metering is available for solar thermal electric, photovoltaics and other renewable technologies up to 80 MW in capacity. Customers are credited or paid for monthly excess generation. Utilities that are subject to PRC jurisdiction are required to offer net metering, and time-of-use tariff customers are allowed to net meter. Meter aggregation is not addressed.

- *Eligible Renewable Technologies:* Solar Thermal Electric, Photovoltaics, Landfill Gas, Wind, Biomass, Hydroelectric, Geothermal Electric, Fuel Cells, Municipal Solid Waste, CHP/Cogeneration, Small Hydroelectric, Micro turbines, and Fuel Cells using Renewable Fuels
- *Authority:* NMAC 17.9.570

Interconnection Standards

Standards apply to all qualifying facilities under PURPA, which generally are all renewable energy systems up to 80 MW in capacity. Customers must pay an application fee based on the size of the system.

- *Authorities:* NMAC 17.9.568, NMAC 17.9.569 and The New Mexico Interconnection Manual

Solar Easements and Rights Laws

The Solar Rights and Solar Recordation Acts allow property owners to create solar easements, protecting access to sunlight. The right to use solar energy is a property right and prevents neighbors from constructing buildings or planting new trees that block access to the sun.

The Solar Recordation Act describes procedures for filing a solar right. Property owners seeking the solar right must give notice to adjacent property owners who are allowed to contest the claim. Once the solar right is attached to the property it remains with it even if it is sold. The right can be bought and sold separately however, so a neighbor can purchase it and cancel it. Local governments can create their own ordinances and zoning rules regarding the protection of solar rights as well.

- *Authorities:* N.M. Stat. § 47.3.1 et seq. (1977) and N.M. Stat. § 3-18-32 (2007)

Mandatory Utility Green Power Option

In addition to the state RPS, New Mexico IOUs must offer a voluntary program to



customers for purchasing renewable energy and must develop an educational program that demonstrates the benefits and availability of this option. Rural electric distribution cooperatives must offer a program if their suppliers make renewable resources available.

- *Eligible Renewable Technologies:* Solar Thermal Electric, Landfill Gas, Biomass, Wind, Photovoltaics, Hydroelectric, Geothermal Electric, Fuel Cells, Hydrogen and Anaerobic Digestion
- *Authority:* NMAC 17.9.572

For more information visit <http://www.nmprc.state.nm.us/utilities/renewable-energy.html>.

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Sources:

Database of State Incentives for Renewables & Efficiency, a joint effort between U.S. Department of Energy Office of Energy Efficiency & Renewable Energy, North Carolina Solar Center and the Interstate Renewable Energy Council; www.dsireusa.org

Incentives for Businesses 50 State Handbook, State Capitol Group (Washington, D.C.: State Capitol Group, July 2010); www.statecapitalgroup.org

Robyn, Mark, *2012 State Business Tax Climate Index*, Tax Foundation (Washington, D.C.: Tax Foundation, January 2012); http://taxfoundation.org/files/2012_tax_foundation_index_bp62.pdf.

Various state websites

