7-2-18.20. Tax credit; agricultural water conservation expenses.  (Repealed effective January 1, 2013.)

A. A taxpayer may claim a credit against the taxpayer's income tax liability for expenses incurred by the taxpayer for eligible improvements in irrigation systems or water management methods. The credit may be claimed for the taxable year in which the expenses are incurred if the taxpayer:

1. in that year, owned or leased a water right appurtenant to the land on which an eligible improvement was made;
2. files an individual New Mexico income tax return for that year;
3. in that year, is not a dependent of another individual; and
4. does not take a tax credit for the same expense on any corporate tax return filed by the taxpayer.

B. The credit provided in this section shall be in the following amounts, not to exceed a maximum annual credit of ten thousand dollars ($10,000):

1. for expenses incurred from January 1, 2008 until December 31, 2008, an amount equal to thirty-five percent of the incurred expenses; and
2. for expenses incurred on or after January 1, 2009, an amount equal to fifty percent of the incurred expenses.

C. As used in this section, "eligible improvement in irrigation systems or water management methods" means an improvement that is:

1. made on or after January 1, 2008;
2. consistent and complies with a water conservation plan approved by the local soil and water conservation district in which the improvement is located; and
3. primarily designed to substantially conserve water on land in New Mexico that is owned or leased by the taxpayer and used by the taxpayer or the taxpayer's lessee to:
   a. produce agricultural products;
   b. harvest or grow trees; or
   c. sustain livestock.

D. Taxpayers who are considered for federal income tax purposes as co-owners of the land on which an eligible improvement in irrigation systems or water management methods is made may claim the pro rata share of the credit allowed pursuant to this section based on the co-owner's ownership interest. The total of the credits allowed all the taxpayers considered co-owners may not exceed the amount that would have been allowed a sole owner of the land.

E. A husband and wife who file separate returns for a taxable year in which they could have
filed a joint return may each claim only one-half of the credit that would have been allowed on a joint return.

F. If the allowable tax credit in a taxable year exceeds the income taxes otherwise due from a taxpayer pursuant to the Income Tax Act, or if there are no income taxes due from the taxpayer, the taxpayer may carry forward the amount of the credit not used in that year to offset the taxpayer's liability for income taxes pursuant to the Income Tax Act for not more than five consecutive taxable years.

G. The New Mexico department of agriculture, with the advice of the soil and water conservation commission, and with information provided by the state engineer, shall promulgate rules to implement this section, and those rules shall include detailed guidelines to assist the department in determining whether improvements in irrigation systems or water management methods qualify for the credit available under this section.

H. A taxpayer claiming the credit shall provide documentary evidence of the amount of water conserved during the period for which the credit is claimed if requested by the department.

I. Water conserved due to improvements in irrigation systems or water management methods and for which a credit is claimed shall not be subject to abandonment or forfeiture, nor shall the conserved water be put to consumptive beneficial use.

J. As used in this section, "taxpayer" may include a partnership, limited liability corporation or other form of pass-through entity, which may pass the credit provided in this section through to its owners in proportion to their share of ownership.

History: Laws 2007, ch. 204, § 5.


Effective dates. — Laws 2007, ch. 204, contained no effective date provision for Laws 2007, ch. 204, § 5, but, pursuant to N.M. Const., art. IV, § 23, was effective June 15, 2007, 90 days after the adjournment of the legislature.