

## **SMALL RENEWABLE CONTRACTOR'S EXCISE TAX REBATE**

49-34A-80. Certain **commercial** small power production facilities subject to 49-34A-80 to 49-34A-92. Any **commercial** small power production facility, utilizing renewable resources, ~~such as sun, wind, geothermal, or biomass,~~ that begins generating electricity after June 30, 2001, and produces ten megawatts or less of electricity as measured by nameplate rating, ~~and is located within one county and owned by a natural person, corporation, nonprofit or for profit business organization, or tribal council (if the facility is located outside the boundaries of the reservation), irrigation district, drainage district, or other political subdivision or agency of the state authorized by statute to carry on the business of developing, transmitting, utilizing, or distributing electric power~~ is subject to the provisions of §§ 49-34A-80 to 49-34A-92, inclusive, for any new or expanded facility.

**Source:** SL 2001, ch 257, § 1.

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49-34A-82. Definitions. Terms used in §§ 49-34A-80 to 49-34A-92, inclusive, mean:

- (1) "Department," the Department of Revenue and Regulation;
- (2) "New or expanded facility," a new **commercial** small power production facility as defined in § 49-34A-80 or an addition to an existing **commercial** small power production facility, the construction or installation of which is subject to contractors' excise tax pursuant to chapter 10-46A or 10-46B;
- (3) "Project," the installation or construction of ~~the first~~ ten megawatts or less of generation capacity of a new or expanded facility;
- (4) "Project cost," the amount paid in money for a project;
- (5) "Renewable resource," a resource that generates electricity from facilities using one or more of the following sources:
  - (a) Wind that uses wind as the source of energy to produce electricity;
  - (b) Solar that uses the sun as the source of energy to produce electricity;
  - (c) Hydroelectric that uses water as the source of energy to produce electricity;
  - (d) Hydrogen that is generated from one of the sources listed in this section;
  - (e) Biomass that uses agricultural crops and agricultural wastes and residues, wood and wood wastes and residues, animal and other degradable organic wastes, municipal solid waste, or landfill gas as the fuel to produce electricity; and
  - (f) Geothermal that uses energy contained in heat that continuously flows outward from the earth as the source of energy to produce electricity.
- ~~(5)~~ (6) "Secretary," the secretary of the Department of Revenue and Regulation.

**Source:** SL 2001, ch 257, § 3; SL 2003, ch 272 (Ex. Ord. 03-1), § 82.

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49-34A-83. Refund or credit of certain taxes for construction of certain power production facilities. Any person may apply for and obtain a refund or credit for contractors' excise taxes imposed and paid under the provisions of chapter 10-46A or 10-46B for the construction of a new or expanded facility that is a **commercial** small power production facility that is defined in § 49-34A- 80.

**Source:** SL 2001, ch 257, § 4.

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49-34A-84. Requirements for refund. The refund pertains only to project costs incurred and paid after July 1, 2001. The refund pertains only to project costs that were incurred and paid within thirty-six months of the approval of the application required by §§ 49-34A-80 to 49-34A-92, inclusive. No refund may be made unless:

~~(1) The project costs exceed five hundred thousand dollars; and~~

~~(2) The the person applying for the refund obtains a permit from the secretary as set forth in § 49- 34A-86.~~

**Source:** SL 2001, ch 257, § 5.

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49-34A-85. Amount of refund. The amount of the tax refund shall be one hundred percent of the contractor's excise taxes attributed to the project cost, excluding any associated transmission facilities.

**Source:** SL 2001, ch 257, § 6.

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49-34A-86. Application for refund--Refund claim not assignable--Exception. Any person desiring to claim a refund pursuant to §§ 49-34A-80 to 49-34A-92, inclusive, shall apply for a permit from the secretary at least thirty days prior to commencement of the project. The application for a permit shall be submitted on a form prescribed by the secretary. A separate application shall be made and submitted for each project. Upon approval of the application, the secretary shall issue a permit entitling the applicant to submit refund claims as provided by §§ 49-34A-80 to 49-34A-92, inclusive. The permit or refund claims are not assignable or transferable except as collateral or security pursuant to chapter 57A-9.

**Source:** SL 2001, ch 257, § 7.

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49-34A-87. Secretary to prescribe form and documentation requirements. Any claim for refund shall be submitted on forms prescribed by the secretary and shall be supported by such documentation as the secretary may require. The secretary may deny any claim where the claimant has failed to provide information or documentation requested or considered necessary by the secretary to determine the validity of the claim.

**Source:** SL 2001, ch 257, § 8.

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49-34A-88. Deadline for submitting claim for refund--Department to withhold percentage of refund. Any claim for refund shall be submitted to the department on or before the last day of the month following each quarterly period. The secretary shall determine the amount of the tax refund. Ninety percent of the amount of refund shall be paid to the claimant in accordance with §§ 10-59-22 and 10-59-23, and ten percent shall be withheld by the department. No interest shall be paid on the refund amount.

**Source:** SL 2001, ch 257, § 9.

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49-34A-89. Withheld amounts paid at completion of project. The amounts withheld by the department in accordance with § 49-34A-88 shall be retained until the project has been completed and the claimant has met all the conditions of §§ 49-34A-80 to 49-34A-92, inclusive, at which time all sums retained shall be paid to claimant.

**Source:** SL 2001, ch 257, § 10.

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49-34A-90. Fraudulent claim--Refunded sums constitute lien in favor of state. If any claim has been fraudulently presented or supported as to any item in the claim, or if the claimant fails to meet all the conditions of §§ 49-34A-80 to 49-34A-92, inclusive, then the claim may be rejected in its entirety and all sums previously refunded to the claimant shall constitute a debt to the state and a lien in favor of the state upon all property and rights to property whether real or personal belonging to the claimant and may be recovered in an action of debt.

**Source:** SL 2001, ch 257, § 11.

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49-34A-91. Right to hearing on denial of refund claim. Any person aggrieved by the denial in whole or in part of a refund claimed under §§ 49-34A-80 to 49-34A-92, inclusive, may within thirty days after service of the notice of a denial by the secretary, demand and is entitled to a hearing, upon notice, before the secretary. The hearing shall be conducted pursuant to chapter 1-26.

**Source:** SL 2001, ch 257, § 12.

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49-34A-92. Promulgation of rules. The secretary may promulgate rules, pursuant to chapter 1-26, concerning the procedures for filing refund claims and the requirements necessary to qualify for a refund.

**Source:** SL 2001, ch 257, § 13.