

2012 Legislation—Income Tax

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House Bills

HB 35 Extension of Recycling Market Development Zone Tax Credits

Amends: 63I-1-263

Effective: 1/1/12 (Retrospective)

Extends the repeal date of the recycling market development corporate and individual income tax credits from 1/1/12 to 1/1/21.

HB 157 Currency Amendments

Amends: 13-32a-103.5, 59-1-1501, 59-1-1502, 59-1-1503, 59-10-1028, 59-12-104, and 59-12-107

Enacts: 59-1-1501.1, 59-1-1505, and 59-1-1506

Repeals: 59-1-1504

Effective: 5/8/12
7/1/12 (amendments to §§59-12-104 and 59-12-107)
1/1/12 (retrospective for amendments to §59-10-1028)

- Defines "specie legal tender" to mean gold or silver coin issued by the United States or other gold or silver coin if authorized by a court of competent jurisdiction or congress; provides that specie legal tender is legal tender in the state.
- Provides that a person may not compel another person to tender or accept specie legal tender except as expressly provided by contract.
- Clarifies the calculation of the income tax credit for capital gains on a transaction involving legal tender.
- Effective 7/1/12, amends the sales tax exemption for sales of coins that are not legal tender to apply to an item with a gold, silver, or platinum content of 50% (down from 80%) or more
- Indicates how a vendor that accepts payment of goods in specie legal tender shall account for those payments on the sales tax return.

HB 250 Tax Credit for Dependent with a Disability

Amends: 59-10-1018

Effective: 1/1/12 (Retrospective)

Allows a tax credit for a dependent adult with a disability or dependent child with a disability as part of the taxpayer tax credit.

The credit amount is 6% of 75% of the amount the taxpayer deducts as a personal exemption on the federal return.

HB 365 Revisions to Tax

Amends: 59-7-612, 59-10-1012, 59-12-102, and 59-12-104

Effective: 7/1/12 for sales tax exemptions
 1/1/12 retrospective for income and corporate tax credit changes

- Decreases income and corporate tax credits for research from 9.2% to 7.5% of qualified research expenses.
- Effective 7/1/12, enacts a sales and use tax exemption for construction materials used in the construction of a new or expanding life science research and development facility in the state, and enacts a sales and use tax exemption for machinery and equipment used for research purposes and repair and replacement parts for that machinery and equipment.

Senate Bills

SB 23 Life Science and Technology Tax Credit Amendments

Amends: 59-7-614.6, 59-10-1025, 59-10-1109, 63M-1-2902, 63M-1-2903, 63M-1-2905, 63M-1-2908, 63M-1-2909, and 63M-1-2910

Repeals: 59-10-1026

Makes changes to life science and technology tax credits to clarify that, while in general, the credit for investment in life science establishments and the credit for capital gains transactions related to a life science establishment may not be taken by a corporation, they may be taken by a corporation that is a pass-through entity taxpayer of an entity that qualifies for the credit.

SB 65 Alternative Energy Development Tax Incentives

Amends: 10-1-304, 59-7-614.2, 59-10-1107, 59-12-102, 59-12-104, and 63M-4-401

Enacts: 59-7-614.7, 59-7-614.8, 59-10-1029, 59-10-1030, 63M-1-3101, 63M-1-3102, 63M-1-3103, 63M-1-3104, 63M-1-3105, 63M-4-501, 63M-4-502, 63M-4-503, 63M-4-504, and 63M-4-505

Repeals: 63M-1-2801, 63M-1-2802, 63M-1-2803, 63M-1-2804, 63M-1-2805, and 63M-1-2806

Effective: 7/1/12 for sales tax changes
1/1/12 Retrospective for income and corporate tax changes

- Requires the Office of Energy Development (instead of GOED) to administer the alternative energy development income and corporate tax credits and changes those from refundable to nonrefundable credits.
- Adds a nonrefundable corporate and individual income tax credit for alternative energy manufacturing, as determined by GOED, with a seven-year carryforward.
- Effective 7/1/12, modifies and expands alternative energy sales and use tax exemptions; extends the sunset date for claiming sales and use tax exemptions related to alternative energy.

SB 143 Income Tax- Pass-Through Entities

Amends: 59-10-1402, 59-10-1403.2

Effective: 1/1/13

- Provides that a pass-through entity includes estates and trusts; provides that a pass-through entity taxpayer includes beneficiaries of an estate or trust.

- Provides that a pass-through entity that is a plan under IRC Sections 401, 408, or 457, or that is not required to file a state corporate tax return is exempt from the withholding requirements.
- In addition to current waiver provisions, provides an additional waiver from penalties and interest if a pass-through entity that is a trust fails to pay or withhold an amount with respect to a dependent beneficiary for whom it has received a signed statement indicating that the dependent beneficiary's AGI will not exceed the basic standard deduction for the dependent beneficiary as calculated under IRC Section 63.
- Establishes a rebuttable presumption in an audit that a pass-through entity that is a trust shall receive a waiver of penalty and interest if the pass-through entity would otherwise have qualified for the waiver except that the trustee failed to apply for a waiver or failed to maintain the dependent beneficiary's signed statement.