

TITLE 3 TAXATION
CHAPTER 3 PERSONAL INCOME TAXES
PART 34 2015 SUSTAINABLE BUILDING TAX CREDIT

3.3.34.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department.
[3.3.34.1 NMAC - Rp, 3.3.34.1 NMAC, 02/08/2022]

3.3.34.2 SCOPE: 3.3.34 NMAC applies to the application and certification procedures for administration of the 2015 sustainable building tax credit for sustainable residential buildings, sustainable commercial buildings and manufactured housing.
[3.3.34.2 NMAC - Rp, 3.3.34.2 NMAC, 02/08/2022]

3.3.34.3 STATUTORY AUTHORITY: 3.3.34 NMAC is established under the authority of Sections 7-2-18.29 and Subsection E of Section 9-1-5 NMSA 1978.
[3.3.34.3 NMAC - Rp, 3.3.34.3 NMAC, 02/08/2022]

3.3.34.4 DURATION: Permanent unless an earlier date is specified in a section.
[3.3.34.4 NMAC - Rp, 3.3.34.4 NMAC, 02/08/2022]

3.3.34.5 EFFECTIVE DATE: February 8, 2022, unless a later date is cited at the end of a section.
[3.3.34.5 NMAC - Rp, 3.3.34.5 NMAC, 02/08/2022]

3.3.34.6 OBJECTIVE: 3.3.34 NMAC's objective is to establish procedures for administering the program to issue a certificate of eligibility for the 2015 sustainable building tax credit for sustainable residential buildings, sustainable commercial buildings and manufactured homes.
[3.3.34.6 NMAC - Rp, 3.3.34.6 NMAC, 02/08/2022]

3.3.34.7 DEFINITIONS: “**2015 sustainable building tax credit**” means the amendments passed by the legislature in 2021 to the new sustainable building tax credit in the Income Tax Act and the Corporate and Franchise Tax Act. The name of the new sustainable building tax credit was changed to the 2015 sustainable building tax credit.

A. “Annual cap” means the annual total amount of the 2015 sustainable building tax credit available to taxpayers owning sustainable buildings.

B. “Applicant” means a taxpayer who owns a sustainable residential or commercial building or manufactured home in New Mexico and who desires to have the department issue a certificate of eligibility for a 2015 sustainable building tax credit.

C. “Application package” means the documents an applicant submits to the department to apply for a certificate of eligibility for a 2015 sustainable building tax credit.

D. “Build green New Mexico certification” means the verification by a department-approved verifier that a building project has met certain prerequisites and performance benchmarks or credits within each category of the build green New Mexico rating system resulting in the issuance of a certification document.

E. “Building type” means the primary use of a building or section of a building as defined in target finder.

F. “Certification” means build green New Mexico certification or LEED certification or energy star qualified for manufactured housing.

G. “Certificate of eligibility” means the document with a unique identifying number that specifies the amount and taxable year and specific physical address for the approved 2015 sustainable building tax credit, the system certification level awarded to the building, the amount of qualified occupied square footage, a calculation of the maximum amount of the 2015 sustainable building tax credit for which the owner would be eligible and the date of issuance.

H. “Certification level” means one of the following:

- (1) LEED-H silver or build green New Mexico silver;
- (2) LEED-H gold or build green New Mexico gold;
- (3) LEED-H platinum or build green New Mexico emerald;
- (4) LEED-NC silver or LEED-NC gold or LEED-NC platinum;
- (5) LEED-EB (O&M) or LEED-CS silver;

- (6) LEED-EB (O&M) or LEED-CS gold;
- (7) LEED-EB (O&M) or LEED-CS platinum; or
- (8) LEED-CI silver or LEED-CI gold or LEED-CI platinum.

- I. **“Code official”** means the officer or other designated authority charged with the administration and enforcement of the building code.
- J. **“Department”** means the energy, minerals and natural resources department.
- K. **“Division director”** means the director of the department’s energy conservation and management division.
- L. **“Energy reduction requirements means”** means has achieved a HERS of 60 or lower for a sustainable residential building; or has reduced energy consumption beginning January 1, 2012, by sixty percent based on the national average for that building type as published by the United States department of energy as substantiated by the United States environmental protection agency target finder energy performance results form dated no sooner than the schematic design phase of development for a sustainable commercial building.
- M. **“Energy star”** means a joint program of the United States environmental protection agency and the United States department of energy that qualifies homes based on a predetermined threshold of energy efficiency and other requirements.
- N. **“Energy star qualified manufactured home”** means a home that an in state or out of state energy star certified plant has certified as being designed, produced and installed in accordance with energy star’s guidelines.
- O. **“HERS”** means home energy rating system as developed by RESNET.
- P. **“HERS index”** means a relative energy use index, where 100 represents the energy use of a home built to a HERS reference house and zero indicates that the proposed home uses no net purchased energy.
- Q. **“LEED certification”** means the verification by the United States green building council, or a department-approved verifier, that a building project has met certain prerequisites and performance benchmarks or credits.
- R. **“Multifamily”** means more than one family dwelling such as two-family dwellings, multiple single-family dwellings such as townhouses and buildings three stories or less in height above grade plane.
- S. **“Not a multifamily dwelling unit that is commercial”** mean a single-family unit occupied by a renter or leasee or a work-live unit.
- T. **“Notice of approval”** means that the work complies in all respects with the latest building code and has been approved by the code official.
- U. **“O&M”** means operation and maintenance.
- V. **“Project completion”** means notice of approval of installation of project prior to April 1, 2023. New buildings and renovations of existing buildings and installations shall be completed before April 1, 2023.
- W. **“Rating system”** means the LEED rating system, the build green New Mexico rating system or the energy star program for manufactured housing.
- X. **“RESNET”** means the residential energy services network, an industry not-for-profit membership corporation and national standards making body for building energy efficiency rating systems.
- Y. **“Solar market development tax credit”** means the personal income tax credit the state of New Mexico issued to a taxpayer between January 1, 2006, and December 31, 2016, for a solar energy system the department has certified.
- Z. **“Target finder”** means the web-based program developed by the United States environmental protection agency to establish an energy goal in kilo british thermal units per square foot per year for predetermined building types.
- AA. **“Taxable year”** means the calendar year or fiscal year upon the basis of which the net income is computed under the Income Tax Act, 7-2-1 *et seq.* NMSA 1978.
- BB. **“Taxpayer”** means any individual subject to the tax imposed by the Income Tax Act, 7-2-1 *et seq.* NMSA 1978.
- CC. **“Taxpayer identification number”** means the taxpayer’s nine-digit social security number or employer identification number provided by a business enterprise.
- DD. **“Verifier”** means an entity the department approves to provide certifications under the build green New Mexico or LEED rating systems.

[3.3.34.7 NMAC - Rp, 3.3.34.7 NMAC, 02/08/2022]

3.3.34.8 GENERAL PROVISIONS:

A. A person who is the owner of a building in New Mexico that has been constructed, renovated or manufactured or is a sustainable residential or sustainable commercial building and that receives certification on or after January 1, 2017, and prior to April 1, 2023, may receive a certificate of eligibility for a 2015 sustainable building tax credit. A subsequent purchaser of a sustainable residential building may receive a certificate if no tax credit has previously been claimed for the building.

B. The annual total amount in a calendar year of the 2015 sustainable building tax credit pursuant to the Income Tax Act and the Corporate Income and Franchise Tax Act available to taxpayers owning sustainable residential buildings is limited to \$3,375,000 for sustainable residential buildings that are not manufactured housing. When the \$3,375,000 cap for sustainable residential buildings is reached, based on all certificates of eligibility the department has issued, the department shall:

(1) if part of an eligible 2015 sustainable residential building tax funds are within the annual residential cap and part is over the annual cap, issue a certificate of eligibility for the amount under the annual cap for the applicable tax year and issue a certificate of eligibility for the balance for the subsequent tax year, except for the last taxable year when the 2015 sustainable building tax credit is in effect;

(2) if no 2015 sustainable residential building tax credit funds are available in a given taxable year, issue a certificate of eligibility for the next subsequent tax year in which funds are available, except for the last taxable year when the 2015 sustainable building tax credit is in effect; or

(3) the department may issue certificates of eligibility to applicants who meet the requirements for the 2015 sustainable residential buildings tax credit in a taxable year when applications for the 2015 sustainable residential buildings tax credit exceed the annual cap, but applications for the 2015 sustainable commercial buildings or manufactured housing tax credits are under the annual cap for that type of sustainable building by February 1 of any year in which the tax credit is in effect.

C. The total amount in a calendar year of the 2015 sustainable building tax credit available pursuant to the Income Tax Act and the Corporate Income and Franchise Tax Act to taxpayers owning sustainable commercial buildings is limited to \$1,250,000. When the \$1,250,000 limit for sustainable commercial buildings is reached, based on all certificates of eligibility the department has issued, the department shall:

(1) if part of the eligible 2015 sustainable building tax credit is within the annual commercial buildings cap and part is over the annual cap, issue a certificate of eligibility for the amount under the annual cap for the applicable tax year and issue a certificate of eligibility for the balance for the subsequent tax year; or

(2) if no 2015 sustainable commercial building tax credit funds are available, issue a certificate of eligibility for the next subsequent tax year in which funds are available, except for the last taxable year when the 2015 sustainable building tax credit is in effect; or

(3) the department may issue certificates of eligibility to applicants who meet the requirements for the 2015 sustainable building tax credit in a taxable year when applications for the 2015 sustainable commercial buildings tax credits exceed the annual cap and applications for the 2015 sustainable residential buildings or manufactured housing tax credits are under the annual cap for that type of sustainable building by February 1 of any year in which the tax credit is in effect.

D. In the event of a discrepancy between a requirement of 3.3.34 NMAC and an existing New Mexico taxation and revenue department rule promulgated before 3.3.34 NMAC's adoption, the existing rule governs.

E. All notices and applications required to be submitted to the department under 3.3.34 NMAC shall be submitted to the energy conservation and management division of the department.

F. There is a \$375,000 annual cap for sustainable residential buildings that are manufactured housing.

[3.3.34.8 NMAC - Rp, 3.3.34.8 NMAC, 02/08/2022]

3.3.34.9 VERIFIER ELIGIBILITY FOR ALL BUILDINGS:

A. The department reviews the qualifications for verifiers of the build green New Mexico or LEED-H certifications or LEED commercial buildings, which shall be provided annually to the department, based on the following criteria:

(1) the verifier is independent from the homebuilders or homeowners or commercial building owner that may apply for certification;

(2) the verifier has adequate staff and expertise to provide certification services, including:

(a) experience in green building services;

(b) ability to enlist and serve builders and provide training, consulting and other guidance as necessary;

and (c) a method of auditing the certification process to maintain adequate stringency;

(d) ability to administer the program and report on the certifications, audits and other relevant information the department may request;

(3) the verifier can identify the geographic area being served; and

(4) the verifier provides a statement that expresses a commitment to promoting energy-efficient green building with the highest standard of excellence.

B. The department approves verifiers after an entity submits a written request to the department that includes documentation on how the entity meets the required criteria. The department notifies the entity of the reasons for disapproving eligibility.

C. The verifier shall notify the department 30 calendar days prior to making changes to its certification process or rating systems.

D. The department may rescind an existing verifier's approval if it determines that the above criteria are not being met.

E. The department notifies the verifier of the reasons for disapproving or rescinding eligibility as follows.

(1) The department shall notify the verifier of the proposed rescission in writing. The verifier has the right to request in writing review of the decision to rescind the verifier's approval. The verifier shall file a request for review within 20 calendar days after the department's notice is sent. The verifier shall address the request to the division director and include the reasons that the department should not rescind the verifier's approval. The director shall consider the request. The division director may hold a hearing and appoint a hearing officer to conduct the hearing. The division director shall send a final decision to the verifier within 20 calendar days after receiving the request or the date the hearing is held.

(2) The verifier may appeal in writing to the department's secretary a division director's decision. The notice of appeal shall include the reasons that the secretary should overturn the division director's decision. The secretary shall consider any appeal from a division director's decision. The verifier shall file the appeal and the reasons for the appeal with the secretary within 14 calendar days of the division director's issuance of the decision. The secretary may hold a hearing and appoint a hearing officer to conduct the hearing. The secretary shall send a final decision to the verifier within 20 calendar days after receiving the request or the date the hearing concludes.

[3.3.34.9 NMAC - Rp, 3.3.34.9 NMAC, 02/08/2022]

3.3.34.10 APPLICATION FOR THE 2015 SUSTAINABLE BUILDING TAX CREDIT:

A. To obtain the 2015 sustainable building tax credit, a taxpayer shall apply for a certificate of eligibility with the department using either a department-developed application form or approved electronic application system as directed by the division director. An applicant may obtain the department-developed application form or access to the electronic application system from the department.

B. An application package shall include a completed application form and attachments as specified on the application form or by the electronic application system. The applicant shall submit the application form and required attachments at the same time. An applicant shall submit one application package for each sustainable building. The applicant shall submit all material in the application package on 8½ inch by 11-inch paper or using any approved electronic application system provided by the department as directed by the division director. If the applicant fails to submit the application form and required attachments at the same time as required by the division director the department may consider the application incomplete.

C. An applicant shall submit a complete application package to the department no later than February 1 of the taxable year for which the applicant seeks the 2015 sustainable building tax credit. If an applicant does not submit a complete application package by February 1, any remaining 2015 sustainable building tax credit funds under the cap may be used in that taxable year for completed 2015 sustainable building applications in another category. The department may review application packages it receives after that date for the subsequent calendar year if the tax credit remains in effect.

D. The completed application form shall consist of the following information:

(1) the applicant's name, mailing address, telephone number and taxpayer identification number;

(2) the name of the applicant's authorized representative;

(3) the ending date of the applicant's taxable year;

(4) the address of the sustainable building, including the property's legal description;

- (5) whether the applicant was the building owner at time of certification or a subsequent purchaser;
- (6) the qualified occupied square footage of the sustainable residential or commercial buildings for projects eligible under LEED or build green New Mexico;
- (7) the rating system under which the sustainable residential or commercial building was certified for projects eligible under LEED or build green New Mexico;
- (8) the certification level achieved, if applicable;
- (9) the HERS index; if applicable;
- (10) documentation that applicant meets water efficiency standards to comply with water efficiency requirements of LEED and build green New Mexico programs;
- (11) the date of rating system certification;
- (12) project completion date;
- (13) notice of approval from a code official shall be provided to document that construction, renovation or installation of project was completed before April 1, 2023; and
- (14) a statement signed and dated by the applicant, which may be a form of electronic signature if approved by the department, agreeing that
 - (a) all information provided in the application package is true and correct to the best of the applicant's knowledge under penalty of perjury;
 - (b) applicant has read the requirements contained in 3.3.34 NMAC;
 - (c) if an onsite solar system is used to meet the requirements of either the rating system certification level applied for in the 2015 sustainable building tax credit or the energy reduction requirement achieved, the applicant did not claim a solar market development tax credit;
 - (d) applicant understands that there are annual caps for the 2015 sustainable building tax credit;
 - (e) applicant understands that the department must verify the documentation submitted in the application package before the department issues a certificate of eligibility for a 2015 sustainable building tax credit; and
 - (f) applicant understands that the department issues a certificate of eligibility for the taxable year in which the sustainable building was certified or, if the 2015 sustainable building tax credit's annual cap has been reached, for the next taxable year in which funds are available.

E. In addition to the application form, the application package shall consist of the following information provided as attachments:

- (1) a copy of a deed, property tax bill or ground lease in the applicant's name as of or after the date of certification for the address or legal description of the sustainable building;
- (2) a copy of the rating system certification form;
- (3) a copy of the final certification review checklist that shows the points achieved, if applicable;
- (4) a copy of a HERS certificate, from a RESNET (or a rating network that has the same standards as RESNET) accredited HERS provider, using software RESNET lists as eligible for certification of the federal tax credit, showing the building has achieved a HERS index of 60 or lower;
- (5) for sustainable commercial buildings that are not multifamily dwelling units, a copy of the final LEED optimized energy performance template or templates, signed by a New Mexico licensed design professional, that the applicant submitted for LEED certification including the results of the energy model that shows the kilo british thermal units per square foot per year for the sustainable commercial building;
- (6) for sustainable commercial buildings that are not multifamily dwelling units, revised documentation of the energy reduction requirement, if the percent of use of any energy source for the energy model is different from the original energy target documentation by more than ten percent;
- (7) a copy of the final LEED enhanced commissioning template, if available under the applicable LEED rating system;
- (8) for multifamily dwelling units, a copy of a HERS certificate from a RESNET (or a rating network that has the same standards as RESNET) accredited HERS provider, using software the internal revenue service lists as eligible for certification of the federal tax credit, showing the building has achieved a HERS index of 60 or lower;
- (9) documentation to show project completion date such as a copy of a notice of approval from a building official; and

(10) other information the department needs to review the building project for the 2015 sustainable building tax credit.

F. If the requirements established by the department have been complied with, the department shall issue to the building owner a document granting a 2015 sustainable building tax credit with an identification number, date of issuance, the rating system certification level awarded to the building, the amount of qualified occupied square footage in the building and a calculation of the maximum amount of the 2015 sustainable building tax credit for which the building owner would be eligible.

[3.3.34.10 NMAC - Rp, 3.3.34.10 NMAC, 02/08/2022]

3.3.34.11 VERIFICATION OF THE ALTERNATIVE METHOD USED FOR THE ENERGY REDUCTION REQUIREMENT:

A. In the event the sustainable commercial building is a building type that is not available in target finder and the applicant uses an alternative method to establish the energy reduction requirement, the applicant shall include the following information in addition to the other application requirements:

(1) a narrative describing the methodology used;

(2) the kilo british thermal units per square foot per year for all buildings, real or modeled, used as a basis of comparison, broken out by all energy sources, and including the percent of use for each energy source; and

(3) all formulas, assumptions and other explanation necessary to clarify how the kilo british thermal units per square foot per year for this project was derived.

B. The department will use the following criteria to evaluate the alternative method:

- (1) clarity and completeness of the description of the alternative method;
- (2) reasonableness of assumptions and comparisons; and
- (3) thoroughness of justification of the method.

C. If the department rejects an alternative method, it notifies the applicant of the reasons for the rejection.

D. The applicant may request that the department obtain the advice of a volunteer review committee of three or more New Mexico registered architects or New Mexico licensed professional mechanical or electrical engineers, chosen by the division, on their assessment of the alternative method, at which time the department may:

- (1) reconsider the decision and accept the alternative method;
- (2) recommend a revised alternative method; or
- (3) reaffirm the rejection of the alternative method.

[3.3.34.11 NMAC - N, 02/08/2022]

3.3.34.12 APPLICATION REVIEW PROCESS:

A. The department considers applications in the order received, according to the day they are received, but not the time of day.

B. The department approves or disapproves an application package following the receipt of the complete application package. The department disapproves an application that is not complete or correct. The department's disapproval letter shall state the reasons why the department disapproved the application. The applicant may resubmit the application package for the disapproved project. The department places the resubmitted application in the review schedule as if it were a new application.

C. The department reviews the application package to calculate the maximum 2015 sustainable building tax credit, check accuracy of the applicant's documentation and determine whether the department issues a certificate of eligibility for the 2015 sustainable building tax credit.

D. If an applicant has claimed a solar market development tax credit (in effect January 1, 2006, through December 31, 2016) that solar system cannot be used to meet the requirements of either the certification level applied for, or the energy reduction achieved. If an applicant has received a solar market development tax credit for a system that is used to meet the requirements of the certification level applied for or the energy reduction achieved, the department shall disapprove the application for the 2015 sustainable building tax credit. The applicant may submit a revised application package to the department that does not include the electricity projected to be generated by the solar system. The department places the resubmitted application in the review schedule as if it were a new application.

E. If the department finds that the application package meets the requirements and a 2015 sustainable building tax credit is available, the department issues the certificate of eligibility for a 2015 sustainable building tax credit. If a 2015 sustainable building tax credit is partially available or not available, the department issues a

certificate of eligibility for any amount that is available and a certificate of eligibility for the balance for the next taxable year except in the last year that the tax credit is in effect. The notification shall include the taxpayer's contact information, taxpayer identification number, certificate of eligibility number or numbers, the rating system certification level awarded to the building, the amount of qualified occupied square footage in the building and calculation of the maximum amount of the 2015 sustainable building tax credit for which the owner would be eligible.

[3.3.34.12 NMAC - Rp, 3.3.34.11 NMAC, 02/08/2022]

3.3.34.13 CALCULATING THE TAX CREDIT:

A. The department calculates the maximum 2015 sustainable building tax credit for sustainable residential and sustainable commercial buildings that are not multifamily dwelling units based on the qualified occupied square footage of the sustainable commercial building, the LEED rating system under which the applicant achieved LEED certification and the certification level the applicant achieved. The tax credit for various square footages is specified in the chart below.

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|-------------------------------------|---|
| LEED-NC silver: | |
| first 10,000 square feet | equals the qualified occupied square footage less than or equal to 10,000 multiplied by \$3.50; plus |
| next 40,000 square feet | the qualified occupied square footage greater than 10,000 and less than or equal to 50,000 multiplied by \$1.75; plus |
| next 450,000 square feet | the qualified occupied square footage greater than 50,000 and less than or equal to 500,000 multiplied by \$.70 |
| LEED-NC gold: | |
| first 10,000 square feet | equals the qualified occupied square footage less than or equal to 10,000 multiplied by \$4.75; plus |
| next 40,000 square feet | the qualified occupied square footage greater than 10,000 and less than or equal to 50,000 multiplied by \$2.00; plus |
| next 450,000 square feet | the qualified occupied square footage greater than 50,000 and less than or equal to 500,000 multiplied by \$1.00 |
| LEED-NC platinum: | |
| first 10,000 square feet | equals the qualified occupied square footage less than or equal to 10,000 multiplied by \$6.25; plus |
| next 40,000 square feet | the qualified occupied square footage greater than 10,000 and less than or equal to 50,000 multiplied by \$3.25; plus |
| next 450,000 square feet | the qualified occupied square footage greater than 50,000 and less than or equal to 500,000 multiplied by \$2.00 |
| LEED-EB OR LEED-CS silver: | |
| first 10,000 square feet | equals the qualified occupied square footage less than or equal to 10,000 multiplied by \$2.50; plus |
| next 40,000 square feet | the qualified occupied square footage greater than 10,000 and less than or equal to 50,000 multiplied by \$1.25; plus |
| next 450,000 square feet | the qualified occupied square footage greater than 50,000 and less than or equal to 500,000 multiplied by \$.50 |
| LEED-EB OR LEED-CS gold: | |
| first 10,000 square feet | equals the qualified occupied square footage less than or equal to 10,000 multiplied by \$3.35; plus |
| next 40,000 square feet | the qualified occupied square footage greater than 10,000 and less than or equal to 50,000 multiplied by \$1.40; plus |
| next 450,000 square feet | the qualified occupied square footage greater than 50,000 and less than or equal to 500,000 multiplied by \$.70 |
| LEED-EB OR LEED-CS platinum: | |
| first 10,000 square feet | equals the qualified occupied square footage less than or equal to 10,000 multiplied by \$4.40; plus |
| next 40,000 square feet | the qualified occupied square footage greater than 10,000 and less than or equal to 50,000 multiplied by \$2.30; plus |

| | |
|--------------------------|---|
| next 450,000 square feet | the qualified occupied square footage greater than 50,000 and less than or equal to 500,000 multiplied by \$1.40 |
| LEED-CI silver: | |
| first 10,000 square feet | equals the qualified occupied square footage less than or equal to 10,000 multiplied by \$1.40; plus |
| next 40,000 square feet | the qualified occupied square footage greater than 10,000 and less than or equal to 50,000 multiplied by \$.70; plus |
| next 450,000 square feet | the qualified occupied square footage greater than 50,000 and less than or equal to 500,000 multiplied by \$.30 |
| LEED-CI gold: | |
| first 10,000 square feet | equals the qualified occupied square footage less than or equal to 10,000 multiplied by \$1.90; plus |
| next 40,000 square feet | the qualified occupied square footage greater than 10,000 and less than or equal to 50,000 multiplied by \$.80; plus |
| next 450,000 square feet | the qualified occupied square footage greater than 50,000 and less than or equal to 500,000 multiplied by \$.40 |
| LEED-CI platinum: | |
| first 10,000 square feet | equals the qualified occupied square footage less than or equal to 10,000 multiplied by \$2.50; plus |
| next 40,000 square feet | the qualified occupied square footage greater than 10,000 and less than or equal to 50,000 multiplied by \$1.30; plus |
| next 450,000 square feet | the qualified occupied square footage greater than 50,000 and less than or equal to 500,000 multiplied by \$.80 |

B. The department calculates the maximum 2015 sustainable building tax credit for residential (single family or multifamily) dwelling units based on the qualified occupied square footage of the sustainable building, the rating system under which the applicant achieved certification and the certification level the applicant achieved. The tax credit for various square footages is specified in the chart below.

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|---|---|
| LEED-H silver or build green New Mexico silver: | |
| up to 2,000 square feet | equals the qualified occupied square footage less than or equal to 2,000 multiplied by \$3.00 |
| LEED-H gold or build green New Mexico gold: | |
| up to 2,000 square feet | equals the qualified occupied square footage less than or equal to 2,000 multiplied by \$4.50 |
| LEED-H platinum or build green New Mexico emerald: | |
| up to 2,000 square feet | equals the qualified occupied square footage less than or equal to 2,000 multiplied by \$6.50 |
| energy star manufactured housing: | |
| up to 2,000 square feet | equals the qualified occupied square footage less than or equal to 2,000 multiplied by \$3.00 |

C. The taxation and revenue department makes the final determination of the amount of the 2015 sustainable building tax credit.

[3.3.34.13 NMAC - Rp, 3.3.34.12 NMAC, 02/08/2022]

3.3.34.14 CLAIMING THE STATE TAX CREDIT: To claim the 2015 sustainable building tax credit, an applicant shall submit all certificates of eligibility to the taxation and revenue department within 30 days of the department's issuance, along with a completed form provided by the taxation and revenue department, and any other information the taxation and revenue department requires. The applicant shall submit the certificate to the taxation and revenue department no later than December 31, 2024.

[3.3.34.14 NMAC - Rp, 3.3.34.13 NMAC, 02/08/2022]

History of 3.3.34 NMAC: 3.3.34 NMAC – New Sustainable Building Tax Credit for Residential Buildings, filed 12/30/2015, was repealed and replaced with 3.3.34 NMAC – 2015 Sustainable Building Tax Credit, effective 02/08/2022.