

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 1612

By: Jolley and Treat of the
Senate

4 and

5 Sears and Casey of the
6 House

7
8
9 AS INTRODUCED

10 An Act relating to income tax credit; amending 68
11 O.S. 2011, Section 2357.22, as last amended by
12 Section 12, Chapter 328, O.S.L. 2014 (68 O.S. Supp.
13 2015, Section 2357.22), which relates to income tax
14 credits for investment in clean-burning motor vehicle
15 fuel property; providing certain exceptions; updating
16 reference; limiting total amount of certain credit
17 which may be claimed during specified time period;
18 providing for annual adjustment of total amount of
19 credits subject to certain limit based on specified
20 calculation and prescribing applicable methodology;
21 providing exception to certain limit under specified
22 circumstances; reducing amount of credit allowed for
23 certain time period; and providing an effective date.

18
19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20 SECTION 1. AMENDATORY 68 O.S. 2011, Section 2357.22, as
21 last amended by Section 12, Chapter 328, O.S.L. 2014 (68 O.S. Supp.
22 2015, Section 2357.22), is amended to read as follows:

23 Section 2357.22. A. For tax years beginning before January 1,
24 2020, there shall be allowed a one-time credit against the income

1 tax imposed by Section 2355 of this title for investments in
2 qualified clean-burning motor vehicle fuel property placed in
3 service after December 31, 1990.

4 B. As used in this section, "qualified clean-burning motor
5 vehicle fuel property" means:

6 1. Equipment installed to modify a motor vehicle which is
7 propelled by gasoline or diesel fuel so that the vehicle may be
8 propelled by a hydrogen fuel cell, compressed natural gas, liquefied
9 natural gas or liquefied petroleum gas; provided, equipment
10 installed on a vehicle propelled by a hydrogen fuel cell shall only
11 be eligible for tax year 2010. The equipment covered by this
12 paragraph must:

13 a. be new, not previously used to modify or retrofit any
14 vehicle propelled by gasoline or diesel fuel and be
15 installed by an alternative fuels equipment technician
16 who is certified in accordance with the Alternative
17 Fuels Technician Certification Act,

18 b. meet all Federal Motor Vehicle Safety Standards set
19 forth in 49 CFR 571, or

20 c. for any commercial motor vehicle (CMV), follow the
21 Federal Motor Carrier Safety Regulations or Oklahoma
22 Intrastate Motor Carrier Regulations;

23 2. A motor vehicle originally equipped so that the vehicle may
24 be propelled by a hydrogen fuel cell, compressed natural gas,

1 liquefied natural gas or liquefied petroleum gas but only to the
2 extent of the portion of the basis of such motor vehicle which is
3 attributable to the storage of such fuel, the delivery to the engine
4 of such motor vehicle of such fuel, and the exhaust of gases from
5 combustion of such fuel. A motor vehicle originally equipped so
6 that the vehicle may be propelled by a hydrogen fuel cell shall only
7 be eligible for tax year 2010;

8 3. Property, not including a building and its structural
9 components, which is:

10 a. directly related to the delivery of compressed natural
11 gas, liquefied natural gas or liquefied petroleum gas,
12 or hydrogen, for commercial purposes or for a fee or
13 charge, into the fuel tank of a motor vehicle
14 propelled by such fuel including compression equipment
15 and storage tanks for such fuel at the point where
16 such fuel is so delivered but only if such property is
17 not used to deliver such fuel into any other type of
18 storage tank or receptacle and such fuel is not used
19 for any purpose other than to propel a motor vehicle,
20 or

21 b. a metered-for-fee, public access recharging system for
22 motor vehicles propelled in whole or in part by
23 electricity. The property covered by this paragraph
24 must be new, and must not have been previously

1 installed or used to refuel vehicles powered by
2 compressed natural gas, liquefied natural gas or
3 liquefied petroleum gas, hydrogen or electricity.

4 Any property covered by this paragraph which is related to the
5 delivery of hydrogen into the fuel tank of a motor vehicle shall
6 only be eligible for tax year 2010; or

7 4. Property which is directly related to the compression and
8 delivery of natural gas from a private home or residence, for
9 noncommercial purposes, into the fuel tank of a motor vehicle
10 propelled by compressed natural gas. The property covered by this
11 paragraph must be new and must not have been previously installed or
12 used to refuel vehicles powered by natural gas.

13 C. As used in this section, "motor vehicle" means a motor
14 vehicle originally designed by the manufacturer to operate lawfully
15 and principally on streets and highways.

16 D. ~~The~~ Except as provided in subsection L of this section, the
17 credit provided for in subsection A of this section shall be as
18 follows:

19 1. After ~~the effective date of this act~~ August 22, 2014, for
20 the qualified clean-burning motor vehicle fuel property defined in
21 paragraph 1 or 2 of subsection B of this section, forty-five percent
22 (45%) of the cost of the qualified clean-burning motor vehicle fuel
23 property;

1 2. For qualified clean-burning motor vehicle fuel property
2 defined in paragraph 3 of subsection B of this section, a per-
3 location credit of seventy-five percent (75%) of the cost of the
4 qualified clean-burning motor vehicle fuel property; and

5 3. For qualified clean-burning motor vehicle fuel property
6 defined in paragraph 4 of subsection B of this section, a per-
7 location credit of the lesser of fifty percent (50%) of the cost of
8 the qualified clean-burning motor vehicle fuel property or Two
9 Thousand Five Hundred Dollars (\$2,500.00).

10 E. ~~In~~ Except as otherwise provided in subsection L of this
11 section, in cases where no credit has been claimed pursuant to
12 paragraph 1 of subsection D of this section by any prior owner and
13 in which a motor vehicle is purchased by a taxpayer with qualified
14 clean-burning motor vehicle fuel property installed by the
15 manufacturer of such motor vehicle and the taxpayer is unable or
16 elects not to determine the exact basis which is attributable to
17 such property, the taxpayer may claim a credit in an amount not
18 exceeding the lesser of ten percent (10%) of the cost of the motor
19 vehicle or One Thousand Five Hundred Dollars (\$1,500.00).

20 F. If the tax credit allowed pursuant to subsection A of this
21 section exceeds the amount of income taxes due or if there are no
22 state income taxes due on the income of the taxpayer, the amount of
23 the credit not used as an offset against the income taxes of a
24 taxable year may be carried forward as a credit against subsequent

1 income tax liability for a period not to exceed five (5) years.
2 Provided, for tax years beginning on or after January 1, 2017, and
3 ending on or before December 31, 2019, the amount of the credits
4 available as an offset in a taxable year shall be limited to the
5 percentage calculated by the Tax Commission pursuant to the
6 provisions of subsection J of this section.

7 G. A husband and wife who file separate returns for a taxable
8 year in which they could have filed a joint return may each claim
9 only one-half (1/2) of the tax credit that would have been allowed
10 for a joint return.

11 H. The Oklahoma Tax Commission is herein empowered to
12 promulgate rules by which the purpose of this section shall be
13 administered, including the power to establish and enforce penalties
14 for violations thereof.

15 I. Notwithstanding the provisions of Section 2352 of this
16 title, for the fiscal year beginning on July 1, 2014, and each
17 fiscal year thereafter, the Tax Commission shall calculate an amount
18 that equals five percent (5%) of the cost of qualified clean-burning
19 motor vehicle fuel property as provided for in paragraph 1 of
20 subsection D of this section for tax year 2012. For each subsequent
21 fiscal year thereafter, the Tax Commission shall perform the same
22 computation with respect to the second tax year preceding the
23 beginning of each subsequent fiscal year. The Tax Commission shall
24 then transfer an amount equal to the amount calculated in this

1 subsection from the revenue derived pursuant to the provisions of
2 subsections A, B and E of Section 2355 of this title to the
3 Compressed Natural Gas Conversion Safety and Regulation Fund created
4 in Section ~~13 of this act~~ 130.25 of Title 74 of the Oklahoma
5 Statutes.

6 J. For tax years beginning on or after January 1, 2017, and
7 ending on or before December 31, 2019, the total amount of credits
8 authorized by this section used to offset tax shall be adjusted
9 annually to limit the annual amount of credits to Six Million
10 Dollars (\$6,000,000.00). The Tax Commission shall annually
11 calculate and publish a percentage by which the credits authorized
12 by this section shall be reduced so the total amount of credits used
13 to offset tax does not exceed Six Million Dollars (\$6,000,000.00)
14 per year. The formula to be used for the percentage adjustment
15 shall be Six Million Dollars (\$6,000,000.00) divided by the credits
16 used to offset tax in the second preceding year.

17 K. Pursuant to subsection J of this section, in the event the
18 total tax credits authorized by this section exceed Six Million
19 Dollars (\$6,000,000.00) in any calendar year, the Tax Commission
20 shall permit any excess over Six Million Dollars (\$6,000,000.00) but
21 shall factor such excess into the percentage adjustment formula for
22 subsequent years.

23 L. For any credits calculated pursuant to subsection D or E of
24 this section for tax years beginning on or after January 1, 2017,

1 the amount of the credit allowed shall be equal to seventy-five
2 percent (75%) of the amount otherwise provided.

3 SECTION 2. This act shall become effective November 1, 2016.

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