

HEAVY DUTY TAX CREDIT AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel Hemmert

House Sponsor: Jon E. Stanard

LONG TITLE

General Description:

This bill amends the corporate and individual heavy duty vehicle tax credits.

Highlighted Provisions:

This bill:

- ▶ clarifies that the corporate tax credit is nonrefundable;
- ▶ amends definitions;
- ▶ removes references to qualified conversions;
- ▶ modifies the definition of a "qualified heavy duty vehicle" to include heavy duty vehicles that have hydrogen-electric and electric drivetrains for purposes of receiving a corporate or individual income tax credit; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-7-618, as last amended by Laws of Utah 2016, Chapter 375

59-10-1033, as last amended by Laws of Utah 2016, Chapter 375

Be it enacted by the Legislature of the state of Utah:

29 Section 1. Section **59-7-618** is amended to read:

30 **59-7-618. Tax credit related to alternative fuel heavy duty vehicles.**

31 (1) As used in this section:

32 (a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air
33 Conservation Act.

34 (b) "Director" means the director of the Division of Air Quality appointed under
35 Section [19-2-107](#).

36 ~~[(b)]~~ (c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according
37 to vehicle classifications established by the Federal Highway Administration.

38 ~~[(c)]~~ (d) "Natural gas" includes compressed natural gas and liquified natural gas.

39 ~~[(d)]~~ (e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

40 (i) has never been titled or registered and has been driven less than 7,500 miles; and

41 (ii) is fueled by natural gas, has a 100% electric drivetrain, or has a hydrogen-electric
42 drivetrain.

43 ~~[(e)]~~ (f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

44 ~~[(f)]~~ (g) "Qualified taxpayer" means a taxpayer ~~[who]~~ that:

45 (i) purchases a qualified heavy duty vehicle; and

46 (ii) receives a tax credit certificate from the ~~[board]~~ director.

47 ~~[(g)]~~ (h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and
48 owned by a single taxpayer.

49 ~~[(h)]~~ (i) "Tax credit certificate" means a certificate issued by the ~~[board]~~ director
50 certifying that a taxpayer is entitled to a tax credit as provided in this section and stating the
51 amount of the tax credit.

52 (2) ~~[For a taxable year beginning on or after January 1, 2015, a]~~ A qualified taxpayer
53 may claim a nonrefundable tax credit against tax otherwise due under this chapter or Chapter 8,
54 Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or
55 Income Tax Act:

56 (a) in an amount equal to:
57 [~~(i) \$25,000, if the qualified purchase occurs during calendar year 2015, calendar year~~
58 ~~2016, or calendar year 2017;~~]

59 (i) \$25,000, if the qualified purchase of a natural gas heavy duty vehicle occurs during
60 calendar year 2015 or calendar year 2016;

61 (ii) \$25,000, if the qualified purchase occurs during calendar year 2017;

62 [~~(ii)~~] (iii) \$20,000, if the qualified purchase occurs during calendar year 2018;

63 [~~(iii)~~] (iv) \$18,000, if the qualified purchase occurs during calendar year 2019; and

64 [~~(iv)~~] (v) \$15,000, if the qualified purchase occurs during calendar year 2020; and

65 (b) if the qualified taxpayer certifies under oath that over 50% of the miles that the
66 heavy duty vehicle that is the subject of the qualified purchase will travel annually will be
67 within the state.

68 (3) (a) Except as provided in Subsection (3)(b), a taxpayer may not submit an
69 application for, and the [~~board~~] director may not issue to the taxpayer, a tax credit certificate
70 under this section in any taxable year for a [~~qualifying~~] qualified purchase if the [~~board~~]
71 director has already issued tax credit certificates to the taxpayer for 10 [~~qualifying~~] qualified
72 purchases in the same taxable year.

73 (b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of
74 tax credits under Subsection (5) has not been claimed, a taxpayer may submit an application
75 for, and the [~~board~~] director may issue to the taxpayer, one or more tax credit certificates for up
76 to eight additional [~~qualifying~~] qualified purchases, even if the [~~board~~] director has already
77 issued to that taxpayer tax credit certificates for the maximum number of [~~qualifying~~] qualified
78 purchases allowed under Subsection (3)(a).

79 (4) (a) Subject to Subsection (4)(b), the [~~board~~] director shall reserve 25% of all tax
80 credits available under this section for qualified taxpayers with a small fleet.

81 (b) Subsection (4)(a) does not prevent a taxpayer from submitting an application for, or
82 the [~~board~~] director from issuing, a tax credit certificate if [~~the~~], before October 1, qualified

83 taxpayers with a small fleet have not reserved under Subsection (5)(b) tax credits for the full
84 amount reserved under Subsection (4)(a) [for taxpayers with a small fleet has not been claimed
85 by a date that is 90 days before the end of the year].

86 (5) (a) The aggregate annual total amount of tax credits represented by tax credit
87 certificates that the [board] director issues under this section[~~, when combined with the~~
88 ~~aggregate annual total amount of tax credits represented by tax credit certificates that the board~~
89 ~~issues under] and Section 59-10-1033[~~;~~] may not exceed \$500,000.~~

90 (b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative
91 Rulemaking Act, make rules to establish a process [~~whereby~~] under which a taxpayer may
92 reserve a potential tax credit under this section for a limited time to allow the taxpayer to make
93 a [~~qualifying~~] qualified purchase with the assurance that the aggregate limit under Subsection
94 (5)(a) will not be met before the taxpayer is able to submit an application for a tax credit
95 certificate.

96 (6) (a) (i) A taxpayer wishing to claim a tax credit under this section shall, using forms
97 the board requires by rule:

- 98 (A) submit to the [board] director an application for a tax credit;
- 99 (B) provide the [board] director proof of a [~~qualifying~~] qualified purchase; and
- 100 (C) submit to the [board] director the certification under oath required under
101 Subsection (2)(b).

102 (ii) Upon receiving the application, proof, and certification required under Subsection
103 (6)(a)(i), the [board] director shall provide the taxpayer a written statement from the [board]
104 director acknowledging receipt of the proof.

105 (b) If the [board] director determines that a taxpayer qualifies for a tax credit under this
106 section, the [board] director shall:

- 107 (i) determine the amount of tax credit the taxpayer is allowed under this section; and
- 108 (ii) provide the [~~qualifying~~] taxpayer with a written tax credit certificate:
 - 109 (A) stating that the taxpayer has qualified for a tax credit; and

110 (B) showing the amount of tax credit for which the taxpayer has qualified under this
111 section.

112 (c) A qualified taxpayer shall retain the tax credit certificate.

113 (d) The [~~board~~] director shall at least annually submit to the commission a list of all
114 qualified taxpayers to [~~whom the board~~] which the director has issued a tax credit certificate
115 and the amount of each tax credit represented by the tax credit certificates.

116 (7) The tax credit under this section is allowed only:

117 (a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain
118 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year
119 by the qualified taxpayer;

120 (b) for the taxable year in which the [~~qualifying~~] qualified purchase occurs; and

121 (c) once per vehicle.

122 (8) A [~~qualifying~~] qualified taxpayer may not assign a tax credit or a tax credit
123 certificate under this section to another person.

124 (9) If the [~~amount of~~] qualified taxpayer receives a tax credit [~~claimed by a qualifying~~
125 ~~taxpayer~~] certificate under this section that allows a tax credit in an amount that exceeds the
126 [~~qualifying~~] qualified taxpayer's tax liability under this chapter or Chapter 8, Gross Receipts
127 Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for
128 a taxable year, the qualified taxpayer may carry forward the amount of the tax credit
129 [~~exceeding~~] that exceeds the tax liability [~~may be carried forward~~] for a period that does not
130 exceed the next five taxable years.

131 (10) (a) In accordance with any rules prescribed by the commission under Subsection
132 (10)(b), the Division of Finance shall transfer at least annually from the General Fund into the
133 Education Fund the aggregate amount of all tax credits claimed under this section.

134 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
135 commission may make rules for making a transfer from the General Fund into the Education
136 Fund as required by Subsection (10)(a).

137 Section 2. Section **59-10-1033** is amended to read:

138 **59-10-1033. Tax credit related to alternative fuel heavy duty vehicles.**

139 (1) As used in this section:

140 (a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air
141 Conservation Act.

142 (b) "Director" means the director of the Division of Air Quality appointed under
143 Section [19-2-107](#).

144 ~~(b)~~ (c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according
145 to vehicle classifications established by the Federal Highway Administration.

146 ~~(c)~~ (d) "Natural gas" includes compressed natural gas and liquified natural gas.

147 ~~(d)~~ (e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

148 (i) has never been titled or registered and has been driven less than 7,500 miles; and

149 (ii) is fueled by natural gas~~;~~ and, has a 100% electric drivetrain, or has a

150 hydrogen-electric drivetrain.

151 ~~(iii) meets air quality standards.]~~

152 ~~(e)~~ (f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

153 ~~(f)~~ (g) "Qualified taxpayer" means a claimant, estate, or trust that:

154 (i) purchases a qualified heavy duty vehicle; and

155 (ii) receives a tax credit certificate from the ~~[board]~~ director.

156 ~~(g)~~ (h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and
157 owned by a single claimant, estate, or trust.

158 ~~(h)~~ (i) "Tax credit certificate" means a certificate issued by the ~~[board]~~ director
159 certifying that a claimant, estate, or trust is entitled to a tax credit as provided in this section
160 and stating the amount of the tax credit.

161 (2) ~~[For a taxable year beginning on or after January 1, 2015, a]~~ A qualified taxpayer
162 may claim a nonrefundable tax credit against tax otherwise due under this chapter:

163 (a) in an amount equal to:

164 ~~[(i) \$25,000, if the qualified purchase occurs during calendar year 2015, calendar year~~
165 ~~2016, or calendar year 2017;]~~

166 (i) \$25,000, if the qualified purchase of a natural gas heavy duty vehicle occurs during
167 calendar year 2015 or calendar year 2016;

168 (ii) \$25,000, if the qualified purchase occurs during calendar year 2017;

169 ~~[(ii)]~~ (iii) \$20,000, if the qualified purchase occurs during calendar year 2018;

170 ~~[(iii)]~~ (iv) \$18,000, if the qualified purchase occurs during calendar year 2019; and

171 ~~[(iv)]~~ (v) \$15,000, if the qualified purchase occurs during calendar year 2020; and

172 (b) if the ~~[claimant, estate, or trust]~~ qualified taxpayer certifies under oath that over
173 50% of the miles that the heavy duty vehicle that is the subject of the qualified purchase ~~[or~~
174 ~~qualified conversion]~~ will travel annually will be within the state.

175 (3) (a) Except as provided in Subsection (3)(b), a claimant, estate, or trust may not
176 submit an application for, and the ~~[board]~~ director may not issue to the claimant, estate, or
177 trust, a tax credit certificate under this section in any taxable year for a ~~[qualifying]~~ qualified
178 purchase if the ~~[board]~~ director has already issued tax credit certificates to the claimant, estate,
179 or trust for 10 ~~[tax credits for qualifying]~~ qualified purchases in the same taxable year.

180 (b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of
181 tax credits under Subsection (5) has not been claimed, a claimant, estate, or trust may submit
182 an application for, and the ~~[board]~~ director may issue to the claimant, estate, or trust, one or
183 more tax credit certificates for up to eight additional ~~[qualifying]~~ qualified purchases, even if
184 the ~~[board]~~ director has already issued to that claimant, estate, or trust tax credit certificates for
185 the maximum number of ~~[qualifying]~~ qualified purchases allowed under Subsection (3)(a).

186 (4) (a) Subject to Subsection (4)(b), the ~~[board]~~ director shall reserve 25% of all tax
187 credits available under this section for ~~[claimants, estates, or trusts]~~ qualified taxpayers with a
188 small fleet.

189 (b) Subsection (4)(a) does not prevent a claimant, estate, or trust from submitting an
190 application for, or the ~~[board]~~ director from issuing, a tax credit certificate if ~~[the]~~, before

191 October 1, qualified taxpayers with a small fleet have not reserved under Subsection (5)(b) tax
192 credits for the full amount reserved under Subsection (4)(a) [for claimants, estates, or trusts
193 with a small fleet has not been claimed by a date that is 90 days before the end of the year].

194 (5) (a) The aggregate annual total amount of tax credits represented by tax credit
195 certificates that the [board] director issues under this section[~~, when combined with the~~
196 ~~aggregate annual total amount of tax credits represented by tax credit certificates that the board~~
197 ~~issues under] and Section 59-7-618[~~;~~] may not exceed \$500,000.~~

198 (b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative
199 Rulemaking Act, make rules to establish a process [~~whereby a taxpayer~~] under which a
200 claimant, estate, or trust may reserve a potential tax credit under this section for a limited time
201 to allow the [~~taxpayer~~] claimant, estate, or trust to make a [~~qualifying~~] qualified purchase with
202 the assurance that the aggregate limit under Subsection (5)(a) will not be met before the
203 [~~taxpayer~~] claimant, estate, or trust is able to submit an application for a tax credit certificate.

204 (6) (a) (i) A claimant, estate, or trust wishing to claim a tax credit under this section
205 shall, using forms the board requires by rule:

206 (A) submit to the [board] director an application for a tax credit;

207 (B) provide the [board] director proof of a [~~qualifying~~] qualified purchase [~~or~~
208 ~~qualifying conversion~~]; and

209 (C) submit to the [board] director the certification under oath required under
210 Subsection (2)(b).

211 (ii) Upon receiving the application, proof, and certification required under Subsection
212 (6)(a)(i), the [board] director shall provide the claimant, estate, or trust a written statement
213 from the [board] director acknowledging receipt of the proof.

214 (b) If the [board] director determines that a claimant, estate, or trust qualifies for a tax
215 credit under this section, the [board] director shall:

216 (i) determine the amount of tax credit the claimant, estate, or trust is allowed under this
217 section; and

218 (ii) provide the ~~[qualifying taxpayer]~~ claimant, estate, or trust with a written tax credit
219 certificate:

220 (A) stating that the claimant, estate, or trust has qualified for a tax credit; and

221 (B) showing the amount of tax credit for which the claimant, estate, or trust has
222 qualified under this section.

223 (c) A ~~[claimant, estate, or trust]~~ qualified taxpayer shall retain the tax credit certificate.

224 (d) The ~~[board]~~ director shall at least annually submit to the commission a list of all
225 ~~[claimants, estates, and trusts]~~ qualified taxpayers to which the ~~[board]~~ director has issued a tax
226 credit certificate and the amount of each tax credit represented by the tax credit certificates.

227 (7) The tax credit under this section is allowed only:

228 (a) against a tax owed under this chapter in the taxable year by the qualified taxpayer;

229 (b) for the taxable year in which the ~~[qualifying]~~ qualified purchase occurs; and

230 (c) once per vehicle.

231 (8) A ~~[qualifying]~~ qualified taxpayer may not assign a tax credit or a tax credit
232 certificate under this section to another person.

233 (9) If the ~~[amount of]~~ qualified taxpayer receives a tax credit ~~[claimed by a qualifying~~
234 ~~taxpayer]~~ certificate under this section that allows a tax credit in an amount that exceeds the
235 ~~[qualifying]~~ qualified taxpayer's tax liability under this chapter for a taxable year, the qualified
236 taxpayer may carry forward the amount of the tax credit ~~[exceeding]~~ that exceeds the tax
237 liability ~~[may be carried forward]~~ for a period that does not exceed the next five taxable years.

238 (10) (a) In accordance with any rules prescribed by the commission under Subsection
239 (10)(b), the Division of Finance shall transfer at least annually from the General Fund into the
240 Education Fund the aggregate amount of all tax credits claimed under this section.

241 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
242 commission may make rules for making a transfer from the General Fund into the Education
243 Fund as required by Subsection (10)(a).

244 Section 3. **Retrospective operation.**

245 This bill has retrospective operation for a taxable year beginning on or after January 1,
246 2017.