

ENROLLED HOUSE  
BILL NO. 1085

By: Bonny of the House

and

Gumm of the Senate

An Act relating to revenue and taxation; amending 68 O.S. 2001, Sections 2357.22 and 2357.41, which relate to credits against state income tax; modifying definition; modifying applicability of certain tax credit; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 2357.22, is amended to read as follows:

Section 2357.22 A. For tax years beginning before January 1, 2009, there shall be allowed a one-time credit against the income tax imposed by Section 2355 of this title for investments in qualified clean-burning motor vehicle fuel property placed in service after December 31, 1990, and for investments in qualified electric motor vehicle property placed in service after December 31, 1995.

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

1. Equipment installed to modify a motor vehicle which is propelled by gasoline or diesel fuel so that the vehicle may be propelled by methanol, "M-85" which is a mixture of methanol and gasoline containing at least eighty-five percent (85%) methanol, compressed natural gas, liquefied natural gas or liquefied petroleum gas or a combination of at least fifty percent (50%) natural gas;

2. A motor vehicle originally equipped so that the vehicle may be propelled by compressed natural gas, liquefied natural gas or liquefied petroleum gas, or propelled by methanol or "M-85" but only to the extent of the portion of the basis of such motor vehicle which is attributable to the storage of such fuel, the delivery to the engine of such motor vehicle of such fuel, and the exhaust of gases from combustion of such fuel; or

3. Property which is directly related to the delivery of methanol, "M-85", compressed natural gas, liquefied natural gas or liquefied petroleum gas into the fuel tank of a motor vehicle propelled by such fuel including compression equipment and storage tanks for such fuel at the point where such fuel is so delivered but only if such property is not used to deliver such fuel into any other type of storage tank or receptacle and such fuel is not used for any purpose other than to propel a motor vehicle. However,

property which is directly related to the delivery of methanol or "M-85" into the fuel tank of a motor vehicle propelled by such fuel as provided in this paragraph shall be used solely for the purpose of delivering methanol or "M-85" and no other purpose in order to claim the tax credit pursuant to this section. If the property is used for any other purpose than the delivery of methanol or "M-85", the tax credit shall immediately be refunded to the Oklahoma Tax Commission. The Corporation Commission shall inspect the property to determine whether the property is being used for the delivery of methanol or "M-85".

C. As used in this section, "qualified electric motor vehicle property" means a motor vehicle originally equipped to be propelled only by electricity ~~but only~~ to the extent of the full purchase price of the vehicle; provided, if a motor vehicle is also equipped with an internal combustion engine, then such vehicle shall be considered "qualified electric motor vehicle property" only to the extent of the portion of the basis of such motor vehicle which is attributable to the propulsion of the vehicle by electricity. The term "qualified electric motor vehicle property" shall not apply to vehicles known as "golf carts," "go-carts" and other motor vehicles which are manufactured principally for use off the streets and highways.

D. The credit provided for in subsection A of this section shall be fifty percent (50%) of the cost of the qualified clean-burning motor vehicle fuel property or qualified electric motor vehicle property.

E. In cases where no credit has been claimed pursuant to subsection D of this section and in which a motor vehicle is purchased by a taxpayer with qualified clean-burning motor vehicle fuel property or qualified electric motor vehicle property installed by the manufacturer of such motor vehicle and the taxpayer is unable or elects not to determine the exact basis which is attributable to such property, the taxpayer may claim a credit in an amount not exceeding the lesser of ten percent (10%) of the cost of the motor vehicle or One Thousand Five Hundred Dollars (\$1,500.00).

F. If the tax credit allowed pursuant to subsection A of this section exceeds the amount of income taxes due or if there are no state income taxes due on the income of the taxpayer, the amount of the credit not used as an offset against the income taxes of a taxable year may be carried forward as a credit against subsequent income tax liability for a period not to exceed three (3) years.

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

SECTION 2. AMENDATORY 68 O.S. 2001, Section 2357.41, is amended to read as follows:

Section 2357.41 A. For tax years beginning after December 31, 2000, there shall be allowed a credit against the tax imposed by Section 2355 and Section 2370 of this title or Section 624 or 628 of Title 36 of the Oklahoma Statutes for qualified rehabilitation expenditures incurred in connection with any certified historic hotel or historic newspaper plant building located in an increment

or incentive district created pursuant to the Local Development Act. The amount of the credit shall be one hundred percent (100%) of the federal rehabilitation credit provided for in Section 47 of Title 26 of the United States Code.

B. If the credit allowed pursuant to this section exceeds the amount of income taxes due or if there are no state income taxes due on the income of the taxpayer, the amount of the credit allowed but not used in any taxable year may be carried forward as a credit against subsequent income tax liability for a period not exceeding ten (10) years following the qualified expenditures.

C. All rehabilitation work to which the credit may be applied shall be approved by the State Historic Preservation Office prior to completion of the rehabilitation project as meeting the Secretary of the Interior's Standards for Rehabilitation so that the office can provide corrective comments to the taxpayer in order to preserve the historical qualities of the building. A certified historic hotel building or historic newspaper plant building may be rehabilitated for any lawful use or uses, including without limitation mixed uses and still retain eligibility for the credit provided for in this section.

D. The amount of the credit allowed but not used shall be freely transferable to subsequent transferees at any time during the five (5) years following the year of qualification. Any person to whom or to which a tax credit is transferred shall have only such rights to claim and use the credit under the terms that would have applied to the entity by whom or by which the tax credit was transferred. The provisions of this subsection shall not limit the ability of a tax credit transferee to reduce the tax liability of the transferee regardless of the actual tax liability of the tax credit transferor for the relevant taxable period. The transferor originally allowed the credit and the subsequent transferee shall jointly file a copy of the written credit transfer agreement with the Oklahoma Tax Commission within thirty (30) days of the transfer. The written agreement shall contain the name, address and taxpayer identification number of the parties to the transfer, the amount of credit being transferred, the year the credit was originally allowed to the transferor and the tax year or years for which the credit may be claimed. The Tax Commission may promulgate rules to permit verification of the validity and timeliness of a tax credit claimed upon a tax return pursuant to this subsection but shall not promulgate any rules which unduly restrict or hinder the transfers of such tax credit.

E. As used in this section:

1. "Certified historic hotel or historic newspaper plant building" means a hotel or newspaper plant building that is listed on the National Register of Historic Places within three (3) years of taking the credit pursuant to this section; and

2. "Qualified rehabilitation expenditures" means capital expenditures that qualify for the federal rehabilitation credit provided in Section 47 of Title 26 of the United States Code and that were paid after December 31, 2000. Qualified rehabilitation expenditures do not include capital expenditures for nonhistoric additions except an addition that is required by state or federal regulations that related to historic preservation, safety, or

accessibility. In addition, qualified rehabilitation expenditures do not include expenditures related to the cost of acquisition of the property.

SECTION 3. This act shall become effective November 1, 2003.

Passed the House of Representatives the 30th day of April, 2003.

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Presiding Officer of the House of  
Representatives

Passed the Senate the 23rd day of April, 2003.

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Presiding Officer of the Senate