

SB 1799

THE STATE SENATE
Monday, February 25, 2008

Senate Bill No. 1799
As Amended

SENATE BILL NO. 1799 - By: GUMM, ANDERSON and SPARKS of the Senate and TERRILL of the House.

[revenue and taxation - modifying income tax credit for railroad reconstruction - limiting credits granted - effective date]

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

SECTION 1. AMENDATORY Section 8, Chapter 413, O.S.L. 2005, as amended by Section 24, Chapter 44, 2nd Extraordinary Session, O.S.L. 2006 (68 O.S. Supp. 2007, Section 2357.104), is amended to read as follows:

Section 2357.104 A. For taxable years beginning after December 31, 2005, there shall be allowed a credit against the tax imposed by Section 2355 of this title equal to fifty percent (50%) of an eligible taxpayer's qualified railroad reconstruction or replacement expenditures.

B. 1. ~~In no event shall~~ Except as provided in paragraph 2 of this subsection, the amount of the credit ~~exceed~~ shall be limited to the product of Five Hundred Dollars (\$500.00) for tax year 2007 and Two Thousand Dollars (\$2,000.00) for tax ~~years~~ year 2008 and ~~beyond~~ subsequent tax years and the number of miles of railroad track owned

1 or leased within this state by the eligible taxpayer as of the close
2 of the taxable year.

3 2. In tax year 2009 and subsequent tax years, a taxpayer may
4 elect to claim three (3) times the credit specified in paragraph 1
5 of this subsection for qualified expenditures made in the tax year,
6 provided such credit shall be allocated in equal amounts over a
7 three-year period.

8 C. The credit allowed pursuant to subsection A of this section
9 but not used shall be freely transferable, by written agreement, to
10 subsequent transferees at any time during the five (5) years
11 following the year of qualification. An eligible transferee shall
12 be any taxpayer subject to the tax imposed by Section 2355 of this
13 title. The person originally allowed the credit and the subsequent
14 transferee shall jointly file a copy of the written credit transfer
15 agreement with the ~~Oklahoma~~ Tax Commission within thirty (30) days
16 of the transfer. The written agreement shall contain the name,
17 address and taxpayer identification number of the parties to the
18 transfer, the amount of credit being transferred, the year the
19 credit was originally allowed to the transferring person and the tax
20 year or years for which the credit may be claimed. The Tax
21 Commission shall promulgate rules to permit verification of the
22 timeliness of a tax credit claimed upon a tax return pursuant to
23 this subsection but shall not promulgate any rules which unduly

1 restrict or hinder the transfers of such tax credit. The Department
2 of Transportation shall promulgate rules to permit verification of
3 the eligibility of an eligible taxpayer's expenditures for the
4 purpose of claiming the credit. The rules shall provide for the
5 approval of qualified railroad reconstruction or replacement
6 expenditures prior to commencement of a project and provide a
7 certificate of verification upon completion of a project that uses
8 qualified railroad reconstruction or replacement expenditures. The
9 certificate of verification shall satisfy all requirements of the
10 Tax Commission pertaining to the eligibility of the person claiming
11 the credit.

12 D. Any credits allowed pursuant to the provisions of subsection
13 A of this section but not used in any tax year may be carried over
14 in order to each of the five (5) years following the year of
15 qualification.

16 E. A taxpayer who elects to claim credits under paragraph 2 of
17 subsection B of this section shall not be granted credits under
18 paragraph 1 of subsection B of this section during the period of
19 such election.

20 F. As used in this section:

21 1. "Class II and Class III railroad" means a railroad that is
22 classified by the United States Surface Transportation Board as a
23 Class II or Class III railroad;

1 2. "Eligible taxpayer" means any Class II or Class III
2 railroad; and

3 3. "Qualified railroad reconstruction or replacement
4 expenditures" means expenditures for:

- 5 a. reconstruction or replacement of railroad
6 infrastructure including track, roadbed, bridges,
7 industrial leads and track-related structures owned or
8 leased by a Class II or Class III railroad as of
9 January 1, 2006, or
- 10 b. new construction of industrial leads, switches, spurs
11 and sidings and extensions of existing sidings by a
12 Class II or Class III railroad.

13 SECTION 2. This act shall become effective November 1, 2008.

14 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-19-08 - DO PASS,
15 As Amended and Coauthored.