

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SUBCOMMITTEE RECOMMENDATION
4 FOR ENGROSSED

5 SENATE BILL NO. 1267

6 By: Mazzei and Stanislawski of
7 the Senate

8 and

9 Hickman of the House

10 SUBCOMMITTEE RECOMMENDATION

11 An Act relating to revenue and taxation; amending 68
12 O.S. 2001, Section 2357.22, as last amended by
13 Section 1, Chapter 308, O.S.L. 2009 (68 O.S. Supp.
14 2009, Section 2357.22), which relates to income tax;
15 modifying period of time during which certain income
16 tax credit may be claimed; modifying definition to
17 limit time period during which certain property is
18 eligible for specified credit; defining terms;
19 creating tax credit for manufacture of certain
20 electric vehicles; setting amount of credit based on
21 vehicle type; providing for carryover; allowing for
22 promulgation of rules; prohibiting double credits;
23 amending 68 O.S. 2001, Section 5013, as amended by
24 Section 15, Chapter 155, O.S.L. 2007 (68 O.S. Supp.
2009, Section 5013), which relates to sales tax
relief; providing date by which claims for relief
must be filed; providing for codification; and
declaring an emergency.

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

1 SECTION 1. AMENDATORY 68 O.S. 2001, Section 2357.22, as
2 last amended by Section 1, Chapter 308, O.S.L. 2009 (68 O.S. Supp.
3 2009, Section 2357.22), is amended to read as follows:

4 Section 2357.22 A. For tax years beginning before January 1,
5 2015, there shall be allowed a one-time credit against the income
6 tax imposed by Section 2355 of this title ~~for~~:

7 1. For investments in qualified clean-burning motor vehicle
8 fuel property placed in service after December 31, 1990~~;~~ and ~~for~~

9 2. For investments in qualified electric motor vehicle property
10 placed in service after December 31, 1995 and ending upon the
11 effective date of this act.

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

14 1. Equipment installed to modify a motor vehicle which is
15 propelled by gasoline or diesel fuel so that the vehicle may be
16 propelled by a hydrogen fuel cell, compressed natural gas, liquefied
17 natural gas or liquefied petroleum gas; provided, equipment
18 installed on a vehicle propelled by a hydrogen fuel cell shall only
19 be eligible for tax year 2010. The equipment covered by this

20 paragraph must be new and must not have been previously used to
21 modify or retrofit any vehicle propelled by gasoline or diesel fuel;

22 2. A motor vehicle originally equipped so that the vehicle may
23 be propelled by a hydrogen fuel cell, compressed natural gas,
24 liquefied natural gas or liquefied petroleum gas but only to the

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

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

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

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

1 compressed natural gas, liquefied natural gas or
2 liquefied petroleum gas, hydrogen or electricity.

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

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

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

1 D. As used in this section, "motor vehicle" means a motor
2 vehicle originally designed by the manufacturer to operate lawfully
3 and principally on streets and highways.

4 E. The credit provided for in subsection A of this section
5 shall be as follows:

6 1. For the qualified clean-burning motor vehicle fuel property
7 defined in paragraph 1 or 2 of subsection B of this section and for
8 the qualified electric motor vehicle property, fifty percent (50%)
9 of the cost of the qualified clean-burning motor vehicle fuel
10 property or qualified electric motor vehicle property;

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

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

20 F. In cases where no credit has been claimed pursuant to
21 paragraph 1 of subsection E of this section by any prior owner and
22 in which a motor vehicle is purchased by a taxpayer with qualified
23 clean-burning motor vehicle fuel property or qualified electric
24 motor vehicle property installed by the manufacturer of such motor

1 vehicle and the taxpayer is unable or elects not to determine the
2 exact basis which is attributable to such property, the taxpayer may
3 claim a credit in an amount not exceeding the lesser of ten percent
4 (10%) of the cost of the motor vehicle or One Thousand Five Hundred
5 Dollars (\$1,500.00).

6 G. If the tax credit allowed pursuant to subsection A of this
7 section exceeds the amount of income taxes due or if there are no
8 state income taxes due on the income of the taxpayer, the amount of
9 the credit not used as an offset against the income taxes of a
10 taxable year may be carried forward as a credit against subsequent
11 income tax liability for a period not to exceed five (5) years.

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

16 I. The Oklahoma Tax Commission is herein empowered to
17 promulgate rules by which the purpose of this section shall be
18 administered, including the power to establish and enforce penalties
19 for violations thereof.

20 SECTION 2. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2357.402 of Title 68, unless
22 there is created a duplication in numbering, reads as follows:

23 A. As used in this section:
24

1 1. "Electric motor vehicle" means a new electric motor vehicle
2 or new medium-speed electric motor vehicle originally equipped to be
3 propelled only by electricity and required to be registered pursuant
4 to the Oklahoma Vehicle License and Registration Act. The term
5 "electric motor vehicle" shall not apply to "low-speed electric
6 motor vehicles". In order to be eligible the vehicle must also be
7 street legal in Oklahoma and eligible to be tagged in this state;

8 2. "Low-speed electric motor vehicle" means a new four-wheeled
9 electrical vehicle that is powered by an electric motor that draws
10 current from rechargeable storage batteries or other sources of
11 electrical current and whose top speed is greater than twenty (20)
12 miles per hour but not greater than twenty-five (25) miles per hour
13 and is manufactured in compliance with the National Highway Traffic
14 Safety Administration standards for low-speed vehicles in 49 C.F.R.
15 571.500. In order to be eligible the vehicle must also be street
16 legal in Oklahoma and eligible to be tagged in this state; and

17 3. "Medium-speed electric motor vehicle" means any self-
18 propelled, electrically powered four-wheeled motor vehicle, equipped
19 with a roll cage or crush-proof body design, whose speed attainable
20 in one (1) mile is more than thirty (30) miles per hour but not
21 greater than thirty-five (35) miles per hour. In order to be
22 eligible the vehicle must also be street legal in Oklahoma and
23 eligible to be tagged in this state.

24

1 B. For tax years beginning after December 31, 2010, there shall
2 be allowed a one-time credit to electric motor vehicle manufacturers
3 against the income tax imposed by Section 2355 of Title 68 of the
4 Oklahoma Statutes for electric motor vehicles and low-speed electric
5 motor vehicles manufactured in Oklahoma after December 31, 2010.

6 C. The credit provided for in subsection B of this section
7 shall be as follows:

8 1. For an electric motor vehicle defined in paragraph 1 of
9 subsection A of this section a per-vehicle manufactured credit of
10 Two Thousand Dollars (\$2,000.00); and

11 2. For a low-speed electric motor vehicle defined in paragraph
12 2 of subsection A of this section a per-vehicle manufactured credit
13 of Five Hundred Dollars (\$500.00).

14 D. If the tax credit allowed pursuant to subsection B of this
15 section exceeds the amount of income taxes due or if there are no
16 state income taxes due on the income of the taxpayer, the amount of
17 the credit not used as an offset against the income taxes of a
18 taxable year may be carried forward as a credit against subsequent
19 income tax liability for a period not to exceed five (5) years.

20 E. The Oklahoma Tax Commission is herein empowered to
21 promulgate rules by which the purpose of this section shall be
22 administered, including the power to establish and enforce penalties
23 for violations thereof.

1 F. The credit authorized by this section shall not be claimed
2 with respect to any one vehicle based upon multiple definitions as
3 set out in subsection A of this section even if such vehicle would
4 otherwise qualify for tax credits based upon qualification pursuant
5 to more than one definition.

6 SECTION 3. AMENDATORY 68 O.S. 2001, Section 5013, as
7 amended by Section 15, Chapter 155, O.S.L. 2007 (68 O.S. Supp. 2009,
8 Section 5013), is amended to read as follows:

9 Section 5013. A. ~~All~~ Except as otherwise provided in this
10 subsection, all claims for relief authorized by the Sales Tax Relief
11 Act shall be received by and in the possession of the Oklahoma Tax
12 Commission on or before June 30 of each year for sales taxes paid
13 for the preceding calendar year. Claimants shall be allowed a
14 direct credit against income taxes owed by such claimant to the
15 State of Oklahoma for the amount of such claim, in which case such
16 claim shall be filed with the income tax return of the claimant on
17 or before April 15 following the close of the taxable year, unless
18 the claimant has been granted an extension of time in order to file
19 an income tax return, in which case the claim may be filed with the
20 return filed pursuant to the extension. In all cases where
21 claimants have no income tax liability or where the sales tax relief
22 authorized by this section exceeds the income tax liability of the
23 claimant, such claim, or any balance thereof, shall be paid out in
24 the same manner and out of the same fund as refunds of income taxes

1 are paid and so much of said fund as is necessary for such purposes
2 is hereby appropriated. For sales tax paid during tax years after
3 2010, a claim for relief shall be filed no later than October 15
4 after the end of the tax year during which the sales tax was paid.

5 B. 1. Sales tax relief for families receiving assistance
6 pursuant to the federal program of Temporary Aid to Needy Families
7 shall be transferred from the Oklahoma Tax Commission to the
8 Department of Human Services as provided in this subsection for
9 purposes of obtaining federal matching funds to increase the
10 payments to recipients of Temporary Aid to Needy Families. The
11 determination of the amount to be transferred by the Oklahoma Tax
12 Commission shall be based on a statistical report prepared monthly
13 by the Department of Human Services which identifies the number of
14 recipients of Temporary Aid to Needy Families. The amount
15 transferred shall equal one-twelfth (1/12) of the annual sales tax
16 relief for all persons receiving assistance during the month of the
17 report. The amount transferred shall be paid out of the Income Tax
18 Withholding Refund Account of the Tax Commission.

19 2. Monies received from the Tax Commission shall be deposited
20 in the Human Services Fund. Recipients of assistance pursuant to
21 the federal program of Temporary Aid to Needy Families shall receive
22 sales tax relief as a part of their monthly Temporary Aid to Needy
23 Families.

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1 C. All duties of the Tax Commission to make sales tax relief
2 payments to recipients since January 1, 1992, of state supplemental
3 payments or medical assistance as patients in long-term care
4 facilities who have received such supplemental payments or medical
5 assistance throughout the calendar year are hereby transferred to
6 the Department of Human Services. Receipt of such supplemental
7 payments or medical assistance shall constitute automatic
8 eligibility for sales tax relief under the provisions of the Sales
9 Tax Relief Act. Sales tax relief payments to persons identified in
10 this subsection shall be made as soon as practicable after the
11 commencement of each calendar year. The Department of Human
12 Services shall notify the Tax Commission of the total amount of the
13 sales tax relief payments made in order that such sum may be
14 transferred from the Income Tax Withholding Refund Account of the
15 Tax Commission to the Department.

16 D. For those individuals receiving assistance or state
17 supplemental payments as provided in subsections B and C of this
18 section, the Department of Human Services shall make the sales tax
19 relief payment without the requirement of an additional application
20 form.

21 E. To avoid duplication of payment, at the end of each calendar
22 year, the Department of Human Services shall provide the Tax
23 Commission with a list of the individuals who received sales tax
24 relief from the Department. Persons receiving sales tax relief

1 payments directly from the Department of Human Services shall not be
2 entitled to additional sales tax relief payments from the Tax
3 Commission.

4 F. The Department of Human Services and the Tax Commission
5 shall work jointly to notify individuals receiving assistance or
6 state supplemental payments from the Department of Human Services of
7 their possible entitlement and right to apply for sales tax relief
8 as provided for in the Sales Tax Relief Act.

9 SECTION 4. It being immediately necessary for the preservation
10 of the public peace, health and safety, an emergency is hereby
11 declared to exist, by reason whereof this act shall take effect and
12 be in full force from and after its passage and approval.

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