

SB 1267

CORRECTED PRINTING

THE STATE SENATE
Monday, February 22, 2010

Senate Bill No. 1267

As Amended

SENATE BILL NO. 1267 - By: Mazzei and Stanislawski of the Senate and Hickman of the House.

[revenue and taxation - income tax - emergency]

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

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

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

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

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

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

1 1. Equipment installed to modify a motor vehicle which is
2 propelled by gasoline or diesel fuel so that the vehicle may be
3 propelled by a hydrogen fuel cell, compressed natural gas, liquefied
4 natural gas or liquefied petroleum gas; provided equipment installed
5 on a vehicle propelled by a hydrogen fuel cell shall only be
6 eligible for tax year 2010. The equipment covered by this paragraph
7 must be new and must not have been previously used to modify or
8 retrofit any vehicle propelled by gasoline or diesel fuel;

9 2. A motor vehicle originally equipped so that the vehicle may
10 be propelled by a hydrogen fuel cell, compressed natural gas,
11 liquefied natural gas or liquefied petroleum gas but only to the
12 extent of the portion of the basis of such motor vehicle which is
13 attributable to the storage of such fuel, the delivery to the engine
14 of such motor vehicle of such fuel, and the exhaust of gases from
15 combustion of such fuel. A motor vehicle originally equipped so
16 that the vehicle may be propelled by a hydrogen fuel cell shall only
17 be eligible for tax year 2010;

18 3. Property, not including a building and its structural
19 components, which is:

20 a. directly related to the delivery of compressed natural
21 gas, liquefied natural gas or liquefied petroleum gas,
22 or hydrogen, for commercial purposes or for a fee or
23 charge, into the fuel tank of a motor vehicle

1 propelled by such fuel including compression equipment
2 and storage tanks for such fuel at the point where
3 such fuel is so delivered but only if such property is
4 not used to deliver such fuel into any other type of
5 storage tank or receptacle and such fuel is not used
6 for any purpose other than to propel a motor vehicle,
7 or

8 b. a metered-for-fee, public access recharging system for
9 motor vehicles propelled in whole or in part by
10 electricity. The property covered by this paragraph
11 must be new, and must not have been previously
12 installed or used to refuel vehicles powered by
13 compressed natural gas, liquefied natural gas or
14 liquefied petroleum gas, hydrogen or electricity.

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

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

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

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

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

17 1. For the qualified clean-burning motor vehicle fuel property
18 defined in paragraph 1 or 2 of subsection B of this section and for
19 the qualified electric motor vehicle property, fifty percent (50%)
20 of the cost of the qualified clean-burning motor vehicle fuel
21 property or qualified electric motor vehicle property;

22 2. For qualified clean-burning motor vehicle fuel property
23 defined in paragraph 3 of subsection B of this section, a per-

1 location credit of seventy-five percent (75%) of the cost of the
2 qualified clean-burning motor vehicle fuel property; and

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

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

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

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

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

9 **SECTION 2. AMENDATORY 68 O.S. 2001, Section 5013, as**
10 **amended by Section 15, Chapter 155, O.S.L. 2007 (68 O.S. Supp. 2009,**
11 **Section 5013), is amended to read as follows:**

12 Section 5013. A. ~~All~~ Except as otherwise provided in this
13 subsection, all claims for relief authorized by the Sales Tax Relief
14 Act shall be received by and in the possession of the Oklahoma Tax
15 Commission on or before June 30 of each year for sales taxes paid
16 for the preceding calendar year. Claimants shall be allowed a
17 direct credit against income taxes owed by such claimant to the
18 State of Oklahoma for the amount of such claim, in which case such
19 claim shall be filed with the income tax return of the claimant on
20 or before April 15 following the close of the taxable year, unless
21 the claimant has been granted an extension of time in order to file
22 an income tax return, in which case the claim may be filed with the
23 return filed pursuant to the extension. In all cases where

1 claimants have no income tax liability or where the sales tax relief
2 authorized by this section exceeds the income tax liability of the
3 claimant, such claim, or any balance thereof, shall be paid out in
4 the same manner and out of the same fund as refunds of income taxes
5 are paid and so much of said fund as is necessary for such purposes
6 is hereby appropriated. For sales tax paid during tax years after
7 2010, a claim for relief shall be filed no later than October 15th
8 after the end of the tax year during which the sales tax was paid.

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

1 2. Monies received from the Tax Commission shall be deposited
2 in the Human Services Fund. Recipients of assistance pursuant to
3 the federal program of Temporary Aid to Needy Families shall receive
4 sales tax relief as a part of their monthly Temporary Aid to Needy
5 Families.

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

21 D. For those individuals receiving assistance or state
22 supplemental payments as provided in subsections B and C of this
23 section, the Department of Human Services shall make the sales tax

1 relief payment without the requirement of an additional application
2 form.

3 E. To avoid duplication of payment, at the end of each calendar
4 year, the Department of Human Services shall provide the Tax
5 Commission with a list of the individuals who received sales tax
6 relief from the Department. Persons receiving sales tax relief
7 payments directly from the Department of Human Services shall not be
8 entitled to additional sales tax relief payments from the Tax
9 Commission.

10 F. The Department of Human Services and the Tax Commission
11 shall work jointly to notify individuals receiving assistance or
12 state supplemental payments from the Department of Human Services of
13 their possible entitlement and right to apply for sales tax relief
14 as provided for in the Sales Tax Relief Act.

15 **SECTION 3. It being immediately necessary for the preservation**
16 **of the public peace, health and safety, an emergency is hereby**
17 **declared to exist, by reason whereof this act shall take effect and**
18 **be in full force from and after its passage and approval.**

19 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-16-10 - DO PASS,
20 As Amended and Coauthored.