

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 3044

By: Renegar

4
5
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 68
8 O.S. 2001, Section 2357.22, as last amended by
9 Section 1, Chapter 308, O.S.L. 2009 (68 O.S. Supp.
10 2009, Section 2357.22), which relates to clean-
11 burning motor vehicles; modifying definitions;
12 prohibiting carryover; limiting total credit amount;
13 providing for reduction or denial of credit;
14 prohibiting credit entirely under certain
15 circumstances; prohibiting credit contingent on
16 computation of revenue performance; imposing certain
17 duties on State Board of Equalization related to
18 prohibiting granting of credit; prescribing method
19 for computation; requiring repetition of computation;
20 providing for codification; and providing an
21 effective date.

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

23 SECTION 1. AMENDATORY 68 O.S. 2001, Section 2357.22, as
24 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:

21 Section 2357.22 A. For tax years beginning before January 1,
22 2015, unless the prohibition prescribed by subsection J of this
23 section has occurred, there shall be allowed a one-time credit
24 against the income tax imposed by Section 2355 of this title for

1 investments in qualified clean-burning motor vehicle fuel placed in
2 service after December 31, 1990, and for investments in qualified
3 electric motor vehicle property placed in service after December 31,
4 1995.

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

7 1. Equipment installed to modify a motor vehicle which is
8 propelled by gasoline or diesel fuel so that the vehicle may be
9 propelled by a hydrogen fuel cell, compressed natural gas, liquefied
10 natural gas or liquefied petroleum gas. The equipment covered by
11 this paragraph must be new and must not have been previously used to
12 modify or retrofit any vehicle propelled by gasoline or diesel fuel;

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

20 3. Property, not including a building and its structural
21 components, which is:

22 a. directly related to the delivery of compressed natural
23 gas, liquefied natural gas or liquefied petroleum gas,
24 or hydrogen, for commercial purposes or for a fee or

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

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

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

22 C. As used in this section, "qualified electric motor vehicle
23 property" means a ~~motor vehicle~~ passenger car originally equipped to
24 be propelled only by electricity; provided, if a ~~motor vehicle~~

1 passenger car is also equipped with an internal combustion engine,
2 then such vehicle shall be considered "qualified electric motor
3 vehicle property" only to the extent of the portion of the basis of
4 such ~~motor~~ vehicle which is attributable to the propulsion of the
5 vehicle by electricity. The term "qualified electric motor vehicle
6 property" shall not apply to vehicles known as "golf carts," "go-
7 carts" and other motor vehicles which are manufactured principally
8 for use off the streets and highways.

9 D. As used in this section, "motor vehicle" means a ~~motor~~
10 ~~vehicle~~ passenger car that is manufactured in the United States and
11 originally designed by the manufacturer to operate lawfully and
12 principally on streets and highways. In order to be eligible under
13 this section the motor vehicle must be fully enclosed. The fact
14 that a vehicle is street legal is not determinative of qualification
15 for the credit provided by this section. The capability of
16 incidental road use with a vehicle shall not qualify the vehicle for
17 the credit provided by this section.

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

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

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

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

10 F. In cases where no credit has been claimed pursuant to
11 paragraph 1 of subsection E of this section by any prior owner and
12 in which a motor vehicle is purchased by a taxpayer with qualified
13 clean-burning motor vehicle fuel property or qualified electric
14 motor vehicle property installed by the manufacturer of such motor
15 vehicle and the taxpayer is unable or elects not to determine the
16 exact basis which is attributable to such property, the taxpayer may
17 claim a credit in an amount not exceeding the lesser of ten percent
18 (10%) of the cost of the motor vehicle or One Thousand Five Hundred
19 Dollars (\$1,500.00).

20 G. ~~If the tax credit allowed pursuant to subsection A of this~~
21 ~~section exceeds the amount of income taxes due or if there are no~~
22 ~~state income taxes due on the income of the taxpayer, the amount of~~
23 ~~the credit not used as an offset against the income taxes of a~~

24

1 ~~taxable year may be carried forward as a credit against subsequent~~
2 ~~income tax liability for a period not to exceed five (5) years.~~

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

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

11 I. In no event shall any credit allowed for the purchase of a
12 motor vehicle by this section, when combined with any federal credit
13 allowed for the same vehicle, result in a total credit in excess of
14 forty percent (40%) of the value of the motor vehicle. Credits
15 allowed for the purchase of a motor vehicle pursuant to this section
16 shall either be reduced or denied in order to prevent this section
17 from creating total credit of more than forty percent (40%) of the
18 value of the motor vehicle.

19 J. The income tax credit otherwise authorized by this section
20 shall be prohibited contingent upon the determination required to be
21 made by the State Board of Equalization pursuant to Section 2 of
22 this act.

23

24

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2357.22A of Title 68, unless
3 there is created a duplication in numbering, reads as follows:

4 A. The provisions of this section shall be applicable with
5 respect to the implementation of the prohibition on the granting of
6 tax credits pursuant to Section 2357.22 of Title 68 of the Oklahoma
7 Statutes which shall be contingent upon a determination by the State
8 Board of Equalization made by a comparison of the revenue
9 computations described by this section.

10 B. In addition to any other duties prescribed by law, at the
11 meeting required by paragraph 1 of Section 23 of Article X of the
12 Oklahoma Constitution to be held in December 2010, and for every
13 subsequent December meeting of the State Board of Equalization the
14 State Board of Equalization shall determine:

15 1. The amount of revenue growth in the General Revenue Fund of
16 the State Treasury by comparing the fiscal year General Revenue Fund
17 estimate for the fiscal year beginning on the next ensuing July 1
18 date to the revised General Revenue Fund estimate for the then
19 current fiscal year;

20 2. If the amount determined pursuant to the provisions of
21 paragraph 1 of this subsection shows positive growth then the Board
22 shall make a finding that the applicable revenue growth in the state
23 has authorized the granting of the tax credits authorized pursuant
24

1 to Section 2357.22 of Title 68 of the Oklahoma Statutes the
2 following calendar year; and

3 3. If the amount determined pursuant to the provisions of
4 paragraph 1 of this subsection does not show positive growth, the
5 Board shall make a finding that the applicable revenue growth in the
6 state will not authorize the granting of the tax credits authorized
7 pursuant to Section 2357.22 of Title 68 of the Oklahoma Statutes the
8 following calendar year.

9 C. The procedures prescribed by subsection A and subsection B
10 of this section shall be repeated by the State Board of Equalization
11 each year.

12 SECTION 3. This act shall become effective January 1, 2011.

13

14 52-2-9543 CJB 01/14/10

15

16

17

18

19

20

21

22

23

24