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February 24, 2015

AS AMENDED

SENATE BILL NO. 502

By: Quinn, Brecheen, Allen,
Shortey, and Mazzei of the
Senate

and

Sears of the House

[income tax - tax credits - allowance of credits -
effective date]

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

SECTION 1. AMENDATORY 68 O.S. 2011, Section 2357.4, is amended to read as follows:

Section 2357.4. A. Except as otherwise provided in subsection F of Section 3658 of this title and ~~in subsection J~~ subsections J and K of this section, for taxable years beginning after December 31, 1987, there shall be allowed a credit against the tax imposed by Section 2355 of this title for:

1. Investment in qualified depreciable property placed in service during those years for use in a manufacturing operation, as defined in Section 1352 of this title, which has received a manufacturer exemption permit pursuant to the provisions of Section 1359.2 of this title or a qualified aircraft maintenance or

1 manufacturing facility as defined in paragraph 14 of Section 1357 of
2 this title in this state or a qualified web search portal as defined
3 paragraph 35 of Section 1357 of this title; or

4 2. A net increase in the number of full-time-equivalent
5 employees engaged in manufacturing, processing or aircraft
6 maintenance in this state including employees engaged in support
7 services.

8 B. Except as otherwise provided in subsection F of Section 3658
9 of this title and ~~in subsection J~~ subsections J and K of this
10 section, for taxable years beginning after December 31, 1998, there
11 shall be allowed a credit against the tax imposed by Section 2355 of
12 this title for:

13 1. Investment in qualified depreciable property with a total
14 cost equal to or greater than Forty Million Dollars (\$40,000,000.00)
15 within three (3) years from the date of initial qualifying
16 expenditure and placed in service in this state during those years
17 for use in the manufacture of products described by any Industry
18 Number contained in Division D of Part I of the Standard Industrial
19 Classification (SIC) Manual, latest revision; or

20 2. A net increase in the number of full-time-equivalent
21 employees in this state engaged in the manufacture of any goods
22 identified by any Industry Number contained in Division D of Part I
23 of the Standard Industrial Classification (SIC) Manual, latest
24 revision, if the total cost of qualified depreciable property placed

1 in service by the business entity within the state equals or exceeds
2 Forty Million Dollars (\$40,000,000.00) within three (3) years from
3 the date of initial qualifying expenditure.

4 C. The business entity may claim the credit authorized by
5 subsection B of this section for expenditures incurred or for a net
6 increase in the number of full-time-equivalent employees after the
7 business entity provides proof satisfactory to the Oklahoma Tax
8 Commission that the conditions imposed pursuant to paragraph 1 or
9 paragraph 2 of subsection B of this section have been satisfied.

10 D. If a business entity fails to expend the amount required by
11 paragraph 1 or paragraph 2 of subsection B of this section within
12 the time required, the business entity may not claim the credit
13 authorized by subsection B of this section, but shall be allowed to
14 claim a credit pursuant to subsection A of this section if the
15 requirements of subsection A of this section are met with respect to
16 the investment in qualified depreciable property or net increase in
17 the number of full-time-equivalent employees.

18 E. The credit provided for in subsection A of this section, if
19 based upon investment in qualified depreciable property, shall not
20 be allowed unless the investment in qualified depreciable property
21 is at least Fifty Thousand Dollars (\$50,000.00). The credit
22 provided for in subsection A or B of this section shall not be
23 allowed if the applicable investment is the direct cause of a
24 decrease in the number of full-time-equivalent employees. Qualified

1 property shall be limited to machinery, fixtures, equipment,
2 buildings or substantial improvements thereto, placed in service in
3 this state during the taxable year. The taxable years for which the
4 credit may be allowed if based upon investment in qualified
5 depreciable property shall be measured from the year in which the
6 qualified property is placed in service. If the credit provided for
7 in subsection A or B of this section is calculated on the basis of
8 the cost of the qualified property, the credit shall be allowed in
9 each of the four (4) subsequent years. If the qualified property on
10 which a credit has previously been allowed is acquired from a
11 related party, the date such property is placed in service by the
12 transferor shall be considered to be the date such property is
13 placed in service by the transferee, for purposes of determining the
14 aggregate number of years for which credit may be allowed.

15 F. The credit provided for in subsection A or B of this
16 section, if based upon an increase in the number of full-time-
17 equivalent employees, shall be allowed in each of the four (4)
18 subsequent years only if the level of new employees is maintained in
19 the subsequent year. In calculating the credit by the number of new
20 employees, only those employees whose paid wages or salary were at
21 least Seven Thousand Dollars (\$7,000.00) during each year the credit
22 is claimed shall be included in the calculation. Provided, that the
23 first year a credit is claimed for a new employee, such employee may
24 be included in the calculation notwithstanding paid wages of less

1 than Seven Thousand Dollars (\$7,000.00) if the employee was hired in
2 the last three quarters of the tax year, has wages or salary which
3 will result in annual paid wages in excess of Seven Thousand Dollars
4 (\$7,000.00) and the taxpayer submits an affidavit stating that the
5 employee's position will be retained in the following tax year and
6 will result in the payment of wages in excess of Seven Thousand
7 Dollars (\$7,000.00). The number of new employees shall be
8 determined by comparing the monthly average number of full-time
9 employees subject to Oklahoma income tax withholding for the final
10 quarter of the taxable year with the corresponding period of the
11 prior taxable year, as substantiated by such reports as may be
12 required by the Tax Commission.

13 G. The credit allowed by subsection A of this section shall be
14 the greater amount of either:

15 1. One percent (1%) of the cost of the qualified property in
16 the year the property is placed in service; or

17 2. Five Hundred Dollars (\$500.00) for each new employee. No
18 credit shall be allowed in any taxable year for a net increase in
19 the number of full-time-equivalent employees if such increase is a
20 result of an investment in qualified depreciable property for which
21 an income tax credit has been allowed as authorized by this section.

22 H. The credit allowed by subsection B of this section shall be
23 the greater amount of either:
24

1 1. Two percent (2%) of the cost of the qualified property in
2 the year the property is placed in service; or

3 2. One Thousand Dollars (\$1,000.00) for each new employee.

4 No credit shall be allowed in any taxable year for a net
5 increase in the number of full-time-equivalent employees if such
6 increase is a result of an investment in qualified depreciable
7 property for which an income tax credit has been allowed as
8 authorized by this section.

9 I. Except as provided by subsection G of Section 3658 of this
10 title, any credits allowed but not used in any taxable year may be
11 carried over in order as follows:

12 1. To each of the four (4) years following the year of
13 qualification;

14 2. To the extent not used in those years in order to each of
15 the fifteen (15) years following the initial five-year period; and

16 3. If a C corporation that otherwise qualified for the credits
17 under subsection A of this section subsequently changes its
18 operating status to that of a pass-through entity which is being
19 treated as the same entity for federal tax purposes, the credits
20 will continue to be available as if the pass-through entity had
21 originally qualified for the credits subject to the limitations of
22 this section.

23 To the extent not used in paragraphs 1 and 2 of this subsection,
24 such credits from qualified depreciable property placed in service

1 on or after January 1, 2000, may be utilized in any subsequent tax
2 years after the initial twenty-year period.

3 J. No credit otherwise authorized by the provisions of this
4 section may be claimed for any event, transaction, investment,
5 expenditure or other act occurring on or after July 1, 2010, for
6 which the credit would otherwise be allowable until the provisions
7 of this subsection shall cease to be operative on July 1, 2012.
8 Beginning July 1, 2012, the credit authorized by this section may be
9 claimed for any event, transaction, investment, expenditure or other
10 act occurring on or after July 1, 2010, according to the provisions
11 of this section; provided, credits accrued during the period from
12 July 1, 2010, through June 30, 2012, shall be limited to a period of
13 two (2) taxable years. The credit shall be limited in each taxable
14 year to fifty percent (50%) of the total amount of the accrued
15 credit. Any tax credits which accrue during the period of July 1,
16 2010, through June 30, 2012, may not be claimed for any period prior
17 to the taxable year beginning January 1, 2012. No credits which
18 accrue during the period of July 1, 2010, through June 30, 2012, may
19 be used to file an amended tax return for any taxable year prior to
20 the taxable year beginning January 1, 2012.

21 K. No credit shall be allowed pursuant to this section by a
22 taxpayer engaged in electric power generation by means of wind, as
23 described by the North American Industry Classification System No.
24 221119.

SECTION 2. This act shall become effective January 1, 2016.

COMMITTEE REPORT BY: COMMITTEE ON FINANCE
February 24, 2015 - DO PASS AS AMENDED